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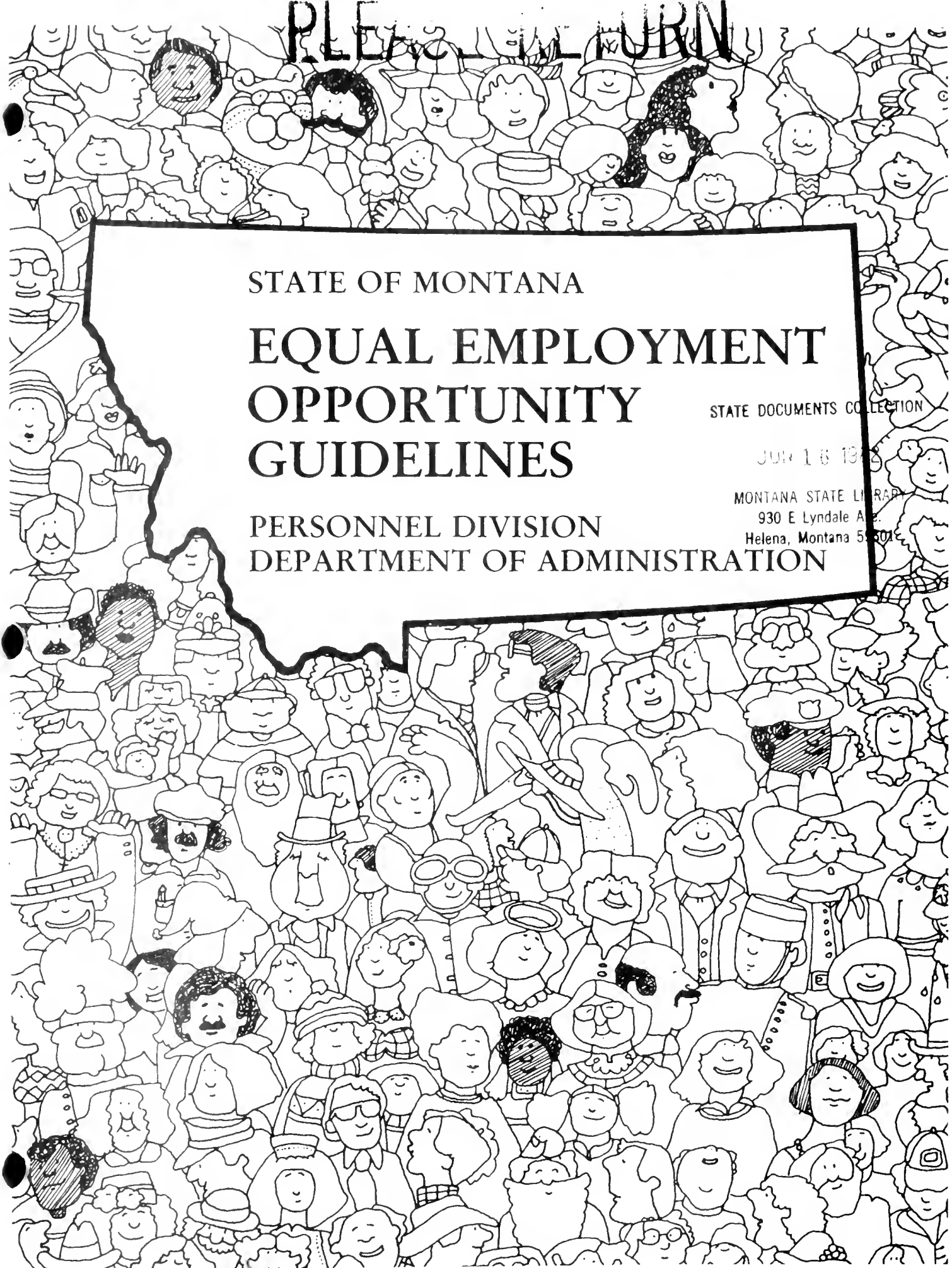
# EQUAL EMPLOYMENT OPPORTUNITY GUIDELINES

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PERSONNEL DIVISION  
DEPARTMENT OF ADMINISTRATION



These Equal Employment Opportunity Guidelines were developed by the staff of the Department of Administration, Personnel Division in cooperation with a Guidelines Committee made up of interested agency representatives.

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**STATE OF MONTANA**  
**EQUAL EMPLOYMENT OPPORTUNITY GUIDELINES**

**ISSUED IN DRAFT FORM**  
**SEPTEMBER 8, 1980**

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**PERSONNEL DIVISION**  
**DEPARTMENT OF ADMINISTRATION**



STATE OF MONTANA  
Office of the Governor  
EXECUTIVE ORDER NO. 24-81

Executive Order Directing the Department of Administration to Implement and Maintain an Equal Employment Opportunity Program in State Government

WHEREAS, equal opportunity in state government is a goal to which I am committed, and

WHEREAS, discriminating barriers to employment in state government must be eliminated, and

WHEREAS, an effective state equal employment opportunity program must be implemented and maintained.

NOW, WHEREOF, I, GEORGE TURMAN, by the authority vested in me as Governor of the State of Montana, pursuant to Article VI, Section 4, of the Constitution of the State of Montana and Sections 2-7-103, 2-15-103, and 2-15-201, Montana Codes Annotated, do hereby order the Department of Administration as follows:

1. Implement and maintain an Equal Employment Opportunity Program for all state government employees. Specifically the Department shall provide such regulations, standards, and other guidelines as may be necessary to implement and maintain an effective equal employment opportunity program throughout state government. The program objectives shall be to eliminate discrimination in personnel salaries and procedures, job structuring and classification, hiring, firing, promoting and training.
2. Monitor the Equal Employment Opportunity Program and submit a status report to me within 90 days of the end of each year.

This order is effective immediately.

GIVEN under my hand and the GREAT SEAL of the State of Montana this 13<sup>TH</sup> day of October in the year of our Lord One Thousand Nine Hundred Eight-One.



GEORGE TURMAN, Acting Governor

ATTEST:



JIM WALTERMIRE, Secretary of State





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## INTRODUCTION

### A. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

State and federal law requires that all persons be given equal opportunity to employment regardless of their race, color, religion, sex, national origin, age or the existence of a handicap. Montana law also requires equal opportunity regardless of marital status or political belief.

While most employers recognize the need to provide equal employment opportunity (EEO), many are confused about why affirmative action (AA) beyond the simple equal application of policies and practices is needed to satisfy their EEO obligation.

Nationwide experience in administering EEO laws over the past 30 years has shown that many neutral, equally applied employment policies and practices unwittingly have very unequal effects on certain groups in our population - most notably on minority groups, women and the handicapped. For example, equally applied requirements that all employees have a masters degree and stand 5'10" would exclude many applicants. However, the degree requirement would disproportionately exclude the more educationally disadvantaged minority groups, blacks, Hispanics, American Indians. The height requirement would disproportionately exclude women, Hispanics, Asians, and individuals with some types of handicap.

The courts have determined that job requirements or other practices which disproportionately exclude a particular race or sex or unnecessarily exclude the handicapped are unlawfully discriminatory unless they are essential to good job performance.

In this way the courts balance the employer's right to freely operate a business or agency and to a qualified work force against the equal opportunity rights of applicants and employees. EEO law allows an employer to use any uniformly applied selection criteria or other practices desired as long as they do not disproportionately exclude a particular race or sex or unnecessarily exclude the handicapped. Practices which have the effect of acting as minority, female, or handicapped barriers can only lawfully be used when the employer can demonstrate that they are essential to good job performance.

Generally, employers unintentionally utilize practices which act as barriers to minority, female and handicapped employment. Consequently, an affirmative action program is needed to first identify these practices and, where possible, correct their effects.

Affirmative action is first and foremost a program to provide statutorily required equal opportunity by eliminating unessential and discriminatory barriers to qualified minority, female, and handicapped applicants and employees. It is only secondarily a program to help people become qualified who need additional assistance as a result of a lifetime of unequal opportunity in many institutions of society.

State and local governments have historically led affirmative action efforts as a matter of public policy. They have sought not only to discharge their legal obligations but to correct inequities that they, along with other segments of society, once helped create and to insure that all groups within the population are represented in their government.

B. PURPOSE OF THE EQUAL EMPLOYMENT OPPORTUNITY GUIDELINES:

These guidelines establish minimum standards for the state's equal employment opportunity program in accordance with Governor's Executive Order 24-81 and supersede the previous guidelines dated January 1976. The new guidelines comply with changes in equal employment opportunity case law and incorporate new and more effective affirmative action techniques.

Like the previous guidelines, these guidelines require each state agency to annually assess its employment picture, identify areas of minority and female deficiency and develop and implement a corrective affirmative action plan.

Unlike the old guidelines, the new guidelines require AA measures for the handicapped or disabled. The new guidelines also focus more strongly on problem identification and correction. With the exception of measures for the handicapped,\* the guidelines call for affirmative action provisions that address specific problems or deficiencies only, not for provisions specifying fair, day-to-day employment practices. This change is being made because: (1) the latter is the function of state and agency policy and (2) concentration of affirmative action resources on a few well-defined objectives should result in greater affirmative action progress and with less expenditure of resources.

The new guidelines also differ from the old by allowing employers to take race and sex into consideration in hiring decisions under limited circumstances for corrective purposes. This option was made possible by the Bakke and Weber Supreme Court decisions and the U.S. Equal Employment Opportunity Commission (EEOC) affirmative action guidelines, (also recently adopted by the Montana Human Rights Commission). Past attempts by employers to voluntarily correct unlawful racial and sexual disparities in their work force have been hampered by a conflicting requirement to avoid any consideration of race and sex in hiring. Employers were liable for disparities created by unnecessary barriers on the one hand and liable for consciously hiring qualified minorities and women to correct those disparities on the other hand.

Finally, the new guidelines concentrate more heavily on measurability of action items. This emphasis is consistent with that of federal agencies and with sound management theory. As a management plan, an affirmative action plan is most effectively implemented when it incorporates the basic principles of Management by Objectives - clearly-defined, measurable objectives, target dates, and assignment of responsibility.

Much of these guidelines is explanatory and advisory rather than basic requirements. To assist the reader in distinguishing basic requirements from advisory or explanatory material, those sections specifying basic requirements are in upper case type.

\* Since labor force statistics for the handicapped are unavailable, numerical deficiencies cannot be identified. Consequently, day-to-day procedures for assuring maximum employment consideration are necessary.

**CHAPTER I**  
**ADMINISTRATION**

A. EQUAL EMPLOYMENT OPPORTUNITY SECTION

THE EQUAL EMPLOYMENT OPPORTUNITY/POLICY DEVELOPMENT SECTION, UNDER THE DIRECTION OF THE DEPARTMENT OF ADMINISTRATION, SHALL HAVE THE RESPONSIBILITY TO ADMINISTER AND IMPLEMENT THE STATE'S EQUAL EMPLOYMENT OPPORTUNITY PROGRAM. THE EQUAL EMPLOYMENT OPPORTUNITY/POLICY DEVELOPMENT SECTION SHALL:

1. DEVELOP EEO STANDARDS, AND ADMINISTRATIVE AND COMPUTER SYSTEMS TO SUPPORT THE STATE EEO PROGRAM.
2. PROVIDE THE EEO ANALYSES AND THE TECHNICAL ASSISTANCE NEEDED BY STATE AGENCIES TO ESTABLISH EFFECTIVE AGENCY AFFIRMATIVE ACTION PROGRAMS.
3. REVIEW AND APPROVE ALL AGENCY AFFIRMATIVE ACTION PLANS TO INSURE COMPLIANCE WITH FEDERAL AND STATE EEO LAW AND THESE GUIDELINES.
4. REVIEW EACH AGENCY'S PROGRESS IN IMPLEMENTING ITS AFFIRMATIVE ACTION PLAN.
5. PREPARE AN ANNUAL REPORT TO THE GOVERNOR EVALUATING THE PROGRESS OF AFFIRMATIVE ACTION IN STATE GOVERNMENT AND RECOMMEND CORRECTIVE MEASURES TO BE TAKEN WHEREVER EQUAL EMPLOYMENT OPPORTUNITY IS NOT FULLY IMPLEMENTED.
6. ADVISE THE GOVERNOR AND THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION CONCERNING RELEVANT EEO LAWS, REGULATIONS, AND GUIDELINES.
7. CONSULT WITH THE STATE CLASSIFICATION BUREAU, MERIT SYSTEM, AND TRAINING SECTION AND MAKE RECOMMENDATIONS TO THEM REGARDING ALL EEO/AA RELATED ASPECTS OF PERSONNEL POLICIES AND PROCEDURES.
8. RESEARCH, MAINTAIN, AND PUBLISH STATISTICAL INFORMATION ON AA PROGRESS WITHIN STATE GOVERNMENT.
9. PROVIDE TRAINING TO STATE EEO OFFICERS AT LEAST ANNUALLY.

B. AGENCY HEAD

THE HEAD OF EACH AGENCY SHALL HAVE THE FULL RESPONSIBILITY FOR INSURING EQUAL EMPLOYMENT OPPORTUNITY FOR THAT AGENCY. THE AGENCY HEAD SHALL INSURE THE DEVELOPMENT AND IMPLEMENTATION OF THE AGENCY'S AFFIRMATIVE ACTION PROGRAM IN ACCORDANCE WITH THESE GUIDELINES. EACH AGENCY HEAD SHALL:

1. DESIGNATE AND IDENTIFY TO THE EQUAL EMPLOYMENT OPPORTUNITY SECTION AN EQUAL EMPLOYMENT OPPORTUNITY OFFICER, HEREAFTER REFERRED TO AS THE "EEO OFFICER." THIS PERSON SHALL BE A POLICY-MAKING EXECUTIVE WITH THE RESPONSIBILITY FOR DEVELOPING AND IMPLEMENTING THE AGENCY'S AFFIRMATIVE ACTION PLAN.

2. PROVIDE SUFFICIENT RESOURCES AND TIME TO THE EEO OFFICER TO EFFECTIVELY CARRY OUT EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND AA DUTIES AND RESPONSIBILITIES INDICATED IN THIS SECTION.
3. ISSUE AN AGENCY EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT ACCORDING TO THE GUIDELINES ESTABLISHED IN CHAPTER II.
4. INSURE ACCURATE COMPLETION AND SUBMISSION OF THE AGENCY'S AFFIRMATIVE ACTION PLAN AND PROVISION OF NECESSARY INFORMATION TO THE EQUAL EMPLOYMENT OPPORTUNITY SECTION WHEN A REVIEW OF THE AGENCY'S AFFIRMATIVE ACTION PROGRAM IS SCHEDULED.
5. INSURE A "GOOD FAITH EFFORT" IN THE ACHIEVEMENT OF AFFIRMATIVE ACTION GOALS.
6. INSURE THAT COMPLAINT PROCEDURES ARE STRICTLY ADHERED TO WITHOUT RETALIATION OR REPRISALS AGAINST ANY PERSON FILING A FORMAL OR INFORMAL DISCRIMINATION COMPLAINT, OR AGAINST ANY PERSON GIVING TESTIMONY OR AIDING IN THE RESOLUTION OF COMPLAINTS.
7. INSURE THAT AN ANNUAL REPORT IS SUBMITTED TO THE GOVERNOR OUTLINING ACTIVITIES UNDERTAKEN DURING THE PAST YEAR TO EFFECTUATE THE CODE OF FAIR PRACTICES AS REQUIRED BY PROVISION 49-3-302, MCA.

C. EEO OFFICER

EEO OFFICERS SHALL BE MANAGEMENT LEVEL EMPLOYEES WITH A COMMITMENT TO EEO/AA. THEY SHALL BE APPOINTED BY THE HEAD OF EACH AGENCY. THEY SHALL BE PROVIDED SUFFICIENT RESOURCES AND TIME DURING NORMAL WORKING HOURS TO PERFORM THE FOLLOWING DUTIES:

1. DRAFT AN EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT FOR THE SIGNATURE OF THE AGENCY HEAD.
2. IN CONJUNCTION WITH LINE MANAGEMENT (1) COLLECT EMPLOYMENT DATA NOT PROVIDED BY THE EEO SECTION, (2) IDENTIFY PROBLEM AREAS THROUGH REVIEW OF: DATA ANALYSIS, AGENCY OPERATIONS, EEO COMPLAINTS, AND WHERE APPLICABLE, RECOMMENDATIONS OF AN AGENCY EQUAL OPPORTUNITY ADVISORY COMMITTEE AND (3) ESTABLISH GOALS, TIMETABLES, AND ACTION ITEMS TO CORRECT PROBLEM AREAS.
3. ANNUALLY DEVELOP A WRITTEN AFFIRMATIVE ACTION PLAN INCLUDING THE IDENTIFIED PROBLEM AREAS AND ESTABLISHED GOALS, TIMETABLES, AND ACTION ITEMS.
4. INFORM ALL MANAGERS AND SUPERVISORS OF THEIR AFFIRMATIVE ACTION RESPONSIBILITIES UNDER THE PLAN AND PROVIDE THEM WITH TECHNICAL ASSISTANCE IN CARRYING THEM OUT.
5. AT LEAST SEMI-ANNUALLY EVALUATE AND REVIEW AGENCY PROGRESS IN IMPLEMENTING THE AFFIRMATIVE ACTION PLAN WITH LINE MANAGERS. IDENTIFY DEFICIENCIES IN PLAN IMPLEMENTATION AND IN THE AFFIRMATIVE ACTION PLAN ITSELF. DEVISE CORRECTIVE MEASURES.

6. AT LEAST SEMI-ANNUALLY REPORT TO THE AGENCY HEAD ON THE AGENCY'S PROGRESS IN MEETING ITS AFFIRMATIVE ACTION GOALS AND ON THE AGENCY'S GENERAL EEO POSTURE.
7. PREPARE AND SUBMIT DATA COLLECTION DOCUMENTS REQUESTED BY THE EEO SECTION FOR THE CENTRAL EEO ANALYSES AND OTHER INFORMATION REQUIRED FOR REVIEW OF AA PROGRESS.
8. PREPARE AN ANNUAL REPORT ON ACTIVITIES UNDERTAKEN DURING THE PAST YEAR TO EFFECTUATE THE CODE OF FAIR PRACTICES, AS REQUIRED BY PROVISION 49-3-302, MCA.
9. ADVISE AND COUNSEL MANAGERS, SUPERVISORS, AND EMPLOYEES ON EEO COMPLAINTS AND SEEK INFORMAL RESOLUTIONS.
10. CONSULT WITH AGENCY MANAGERS AND PROVIDE TECHNICAL ASSISTANCE ON ALL EEO/AA RELATED PERSONNEL PRACTICES.
11. MEET WITH THE AGENCY'S EQUAL EMPLOYMENT ADVISORY COMMITTEE, IF APPLICABLE.

D. HUMAN RIGHTS DIVISION

The Human Rights Division is the staff of the Human Rights Commission for the State of Montana. It enforces the Human Rights Act and the Code of Fair Practices Act. It has authority at all times to review Affirmative Action Plans for effectiveness, either in conjunction with investigations of complaints of discrimination or separately. The division staff has the responsibility to investigate all complaints of discrimination filed with the Commission against any agency of state government. The Commission is a "706" agency for the Equal Employment Opportunity Commission and, as such, investigates complaints of discrimination filed with the Equal Employment Opportunity Commission within the State of Montana.

## CHAPTER II

### DEVELOPING AN AGENCY EQUAL OPPORTUNITY POLICY

EACH AGENCY SHALL DEVELOP A WRITTEN EQUAL OPPORTUNITY POLICY FOR INTERNAL AND EXTERNAL DISSEMINATION.

Unlike the affirmative action plan which is an internal management planning document, the policy statement should be designed to alert employees, potential employees, and the general public to the agency's commitment to equal opportunity and affirmative action.

THE EQUAL OPPORTUNITY POLICY SHALL INCLUDE THE FOLLOWING MINIMAL ELEMENTS:

1. A STATEMENT THAT IT IS THE POLICY OF THE AGENCY TO PROVIDE EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND EQUAL AGENCY SERVICES TO ALL PERSONS REGARDLESS OF RACE, COLOR, RELIGION, CREED, SEX, NATIONAL ORIGIN, AGE, HANDICAP, MARITAL STATUS OR POLITICAL BELIEF WITH THE EXCEPTION OF SPECIAL PROGRAMS ESTABLISHED BY LAW.
2. A STATEMENT THAT TO THIS END, THE AGENCY WILL:
  - A. TAKE AFFIRMATIVE ACTION TO EQUALIZE OPPORTUNITY TO EMPLOYMENT AT ALL LEVELS OF AGENCY OPERATIONS FOR THOSE CLASSES OF PEOPLE WHO HAVE TRADITIONALLY BEEN DENIED EQUAL OPPORTUNITY - MINORITY GROUP MEMBERS, WOMEN AND THE HANDICAPPED.
  - B. MAKE REASONABLE ACCOMMODATIONS NEEDED TO ENABLE QUALIFIED HANDICAPPED EMPLOYEES AND APPLICANTS TO SATISFACTORILY PERFORM THE DUTIES OF AGENCY POSITIONS EXCEPT WHERE THE REQUIRED ACCOMMODATIONS WOULD CREATE AN UNDUE HARDSHIP ON THE AGENCY. SUCH ACCOMMODATIONS MIGHT INCLUDE REARRANGING FURNITURE, PROVIDING SPECIAL EQUIPMENT SUCH AS A TALLER DESK OR LIMITED JOB RESTRUCTURING.
3. A STATEMENT GUARANTEEING EMPLOYEE PROTECTION AGAINST RETALIATION FOR LAWFULLY OPPOSING ANY DISCRIMINATORY PRACTICE, INCLUDING FILING AN INTERNAL GRIEVANCE, FILING A UNION GRIEVANCE, INITIATING AN EXTERNAL ADMINISTRATIVE OR LEGAL PROCEEDING OR TESTIFYING IN OR PARTICIPATING IN ANY OF THE ABOVE.
4. A STATEMENT ASSIGNING RESPONSIBILITY FOR COORDINATING THE AGENCY AFFIRMATIVE ACTION PROGRAM AND ATTEMPTING TO RESOLVE EMPLOYEE EEO GRIEVANCES TO A NAMED EEO OFFICER AND ASSIGNING RESPONSIBILITY FOR IMPLEMENTING THE AFFIRMATIVE ACTION PROGRAM TO ALL AGENCY MANAGERS AND SUPERVISORS.
5. AGENCY HEAD'S SIGNATURE AND DATE.





Affirmative action measures for the handicapped cannot be restricted to job groups with an underutilization of handicapped employees. There are no available handicapped labor force statistics permitting the identification of such job groups. Also, employers are under a legal obligation to reasonably accommodate the specific needs of handicapped applicants and employees for all jobs (as well as provide preference under some circumstances). Consequently, several agency-wide steps must be taken to insure that potential handicapped applicants are informed of employment opportunities and given adequate consideration consistent with state and federal law as follows:

#### Affirmative Action Steps for the Handicapped

- STEP 1 - ESTABLISH ACTION ITEMS TO ASSURE ADEQUATE RECRUITMENT.
- STEP 2 - ESTABLISH ACTION ITEMS AND MONITORING PROCEDURES TO ASSURE ADEQUATE CONSIDERATION OF HANDICAPPED APPLICANTS.
- STEP 3 - DETERMINE IF HANDICAPPED EMPLOYEES ARE BEING PROMOTED AT SAME RATE AS SIMILARLY SITUATED EMPLOYEES AND ESTABLISH CORRECTIVE ACTION ITEMS, IF NEEDED.
- STEP 4 - DETERMINE IF HANDICAPPED EMPLOYEES ARE BEING TREATED FAIRLY ON THE JOB AND ESTABLISH CORRECTIVE ACTION ITEMS, IF NEEDED.

The remainder of this chapter specifies minimum standards for all of the above steps.

Section 2 specifies measures for identifying job groups with minority/female underutilization.

Sections 3-6 specify measures for identifying deficiencies in recruitment, selection, advancement and on-the-job treatment practices which could account for the minority/female underutilization. They also specify minimum standards for correcting these deficiencies and for assuring adequate recruitment, selection, advancement and on-the-job treatment of handicapped individuals in all jobs. Implementation guides in the appendix present some of the many options agencies could select to correct various types of deficiencies.

Section 7 specifies minimum AA plan formatting standards.

## Section 2 - Utilization

### A. IDENTIFYING UTILIZATION DEFICIENCIES

#### 1. Utilization and Availability Analyses (Reports D, E, F and G - Appendix F)

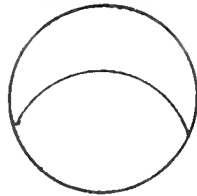
Before an affirmative action plan can be developed to equalize minority and female opportunity to hold state jobs, jobs which have not provided equal opportunity must be identified. This is done by means of a "utilization analysis" which compares the agency's actual number of minorities and women with the number the agency could be expected to have based on their availability for employment\* if no employment barriers exist.

The Utilization Analysis will be computerized and conducted annually for each agency from personnel/payroll data and data supplied by the agency. EACH AGENCY SHALL PROVIDE REQUIRED DATA NOT AVAILABLE CENTRALLY. (PLEASE SEE CHAPTER IV FOR DATA COLLECTION AND RETENTION REQUIREMENTS).

The Utilization Analysis will compare the agency's minority and female representation in various job groups\*\* with two measures of minority and female availability. The first measure is the minority (female) representation of the total labor force of Lewis and Clark County, the State of Montana or the U.S., depending on geographical locations from which employees are drawn.

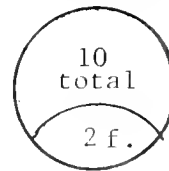
For example, the Utilization Analysis would make the following comparison for mail clerks, if they were drawn from the local area.

TOTAL LABOR FORCE  
LEWIS AND CLARK COUNTY



-42%  
FEMALE

AGENCY  
MAIL CLERKS



-20%  
FEMALE

\* A utilization analysis is not conducted for the handicapped because there is no availability data and federal law requires individual rather than statistical analysis.

\*\* These job groups are: for women -- occupational groups, such as librarians, civil engineers, etc.; for women and minorities -- broad EEO-4 categories such as administrators, professionals, clerical workers, etc., and the group of all jobs in the agency. The analysis is not conducted for specific occupational groups for minorities because the relatively small minority availability would make such an analysis meaningless.

Since in this example, the female representation among mail clerks (20%) is less than the total labor force female representation (42%), a deficiency appears to exist. To determine numerical deficiency, the number of women the agency would be expected to have absent any barriers (parity no.) is calculated. Since the agency would be expected to have 42% female representation, 42% of the total mail clerks is calculated ( $.42 \times 10 = 4$ ). In this case the agency would be expected to have four female mail clerks and is underutilized by two.

The minority (female) representation of the total labor force is an adequate measure of availability for all relatively unskilled jobs\* such as mail clerks. Since these jobs can be performed by most people, absent employment barriers an agency can be expected to employ minorities and women for them in numbers consistent with their total labor force availability (approximately 40-45% female, 3-10% minority).

This measure of availability is also adequate for all professional, technical and skilled jobs with either a proportionate or disproportionately large qualified minority (female) labor force. For instance, a disproportionately large number of graduates in the field of library science are women. An agency can, consequently, be expected to achieve at least 40-45% female representation among librarians.

For these relatively unskilled jobs and jobs with an adequate minority (female) qualified labor force, the minority (female) representation of the total labor force will be used as the only standard of comparison. Jobs or job groups whose minority (female) representations fall below this standard have a utilization deficiency which is not attributable to lack of minimum education or experience qualifications. THESE JOB GROUPS SHALL BE DESIGNATED AS PRIORITY 1 GROUPS AND TARGETED FOR FURTHER ANALYSIS AND PRIORITY AFFIRMATIVE ACTION MEASURES.

The above measure of availability is not adequate for professional, technical, and skilled jobs with a disproportionately small, qualified minority (female) labor force. Agencies cannot be expected to achieve a 40 to 45% female representation in jobs such as engineering jobs (requiring an engineering degree or experience), when less than 6% of persons with degrees or experience in the field are female.

For such jobs, the minority (female) representation of the qualified labor force (all those with the minimum education and experience requirements) is a more realistic measure of availability. Consequently, a second comparison using this measure will be conducted for all professional, technical, and skilled jobs with a disproportionately small minority (female) qualified labor force -- unless the first comparison (with the total labor force figure) was favorable. Jobs or job groups whose minority (female) representations fall below this second standard of comparison also have a utilization deficiency which is not attributable to disproportionate lack of minimum qualifications. THESE JOB GROUPS SHALL ALSO BE DESIGNATED PRIORITY 1 AND TARGETED FOR FURTHER ANALYSIS AND PRIORITY AFFIRMATIVE ACTION MEASURES.

\* These are jobs requiring no more than basic literacy as provided by a high school education and other knowledges, skills and abilities possessed by most people.

For this second comparison, the qualified labor force is defined as: (1) all state employees in related, lower-level classifications (those which provide relevant experience); (2) all persons in the recruitment areas(s) employed in the same or related occupations (those which provide relevant experience); (3) all persons in the recruitment area(s) who have received relevant degrees in the past two years; (4) if statistics are available, all persons who have completed relevant training not resulting in a college degree, such as vocational education programs, in the past two years.

A computerized "availability analysis" will be conducted to combine the minority (female) representation of each of the above segments of the qualified labor force into a composite measure of qualified availability. This will be a single measure (qualified availability index) representing the minority (female) representation of all of the above segments. Agencies will be asked to provide information on what classifications, occupational experience, degrees, and vocational training they consider relevant to each agency classification.

Some professional, technical and skilled job groups will have underutilization which can be attributed to a disproportionate lack of minimum qualifications by minorities and women, (job groups with minority/female representation below total labor force representations but above qualified labor force representations). THESE JOB GROUPS SHALL BE DESIGNATED PRIORITY 2 AND TARGETED FOR SECONDARY ACTION AS INDICATED IN THE FOLLOWING SECTION ON "CORRECTING UTILIZATION DEFICIENCIES."

2. Employee Inventory - (Report A - Appendix F)

An employee inventory will be prepared for agency use in more adequately interpreting the utilization analysis, as well as other analyses. This inventory will be a detailed report on the numbers and percentages of minority employees by racial group, female employees, handicapped employees and age-40-and-over employees\* in each classification, occupational group and EEO-4 category in the agency.

This report will be prepared from personnel/payroll data and will not require additional agency data except identification of handicapped employees and verification of race and sex designations (See Chapter IV).

\* Although federal AA regulations, as well as those of the states, generally do not include affirmative action for older persons, this appears to be a changing area of law. These reports should permit a preliminary determination of whether or not a substantial problem exists.

3. Divisional Representation Analysis (Report B - Appendix F)

For larger agencies a divisional analysis will also be prepared to aid these agencies in identifying pockets of underutilization. This analysis is a printout of the number and percentage of minority, female, and handicapped employees in each division of the agency by EEO-4 category.

It will be prepared from personnel/payroll data, but agencies will be asked to define the divisions for which the analysis should be run.

B. CORRECTING UTILIZATION DEFICIENCIES

Most agency affirmative action plans will be devoted to correcting underutilization which can be attributed to unnecessary barriers rather than to disproportionate lack of essential qualifications by minorities and women. Nearly all agencies can be expected to have this type of underutilization in some job groups.

THESE JOB GROUPS ARE PRIORITY 1 JOB GROUPS REQUIRING FURTHER ANALYSIS, CORRECTIVE ACTION ITEMS AND SELECTION GOALS.

Emphasis should be placed on those with sufficient numbers of employees and turnover to permit effective measures.

The extent of correction over the one-year life of the plan will depend on the number of priority 1 job groups, the extent of the deficiencies, the causes as determined by further analysis (some are easier to correct than others), the amount of turnover, and agency resources.

Job groups with underutilization which can be attributed to a disproportionate lack of job-related minimum education and experience requirements by minorities and women are priority 2 job groups and should be given secondary consideration. However, agencies first have a legal obligation to determine if the stated minimum education and experience qualifications are in fact job-related or consistent with the actual requirements of the job. A REVIEW OF MINIMUM QUALIFICATIONS SHALL BE CONDUCTED FOR AS MANY PRIORITY 2 JOB GROUPS AS POSSIBLE AND ADJUSTMENTS MADE AS APPROPRIATE CONSISTENT WITH THE FEDERAL UNIFORM SELECTION GUIDELINES OR THE SELECTION GUIDE TO BE ISSUED BY THE PERSONNEL DIVISION.

Priority should be given to job groups whose minimum qualifications have not been reassessed for some time or appear to be inaccurate and especially to those with minimum qualifications responsible for disqualifying extremely disproportionate numbers of minority (female) applicants as indicated by the general applicant flow analysis. (See page-13.)

FOR PRIORITY 2 JOB GROUPS WITH ACCURATE MINIMUM QUALIFICATIONS, NO NUMERICAL SELECTION GOALS ARE REQUIRED, BUT WHERE THERE ARE NO OR FEW PRIORITY 2 JOB GROUPS REQUIRING ATTENTION, TWO OR THREE AFFIRMATIVE MEASURES SHALL BE TAKEN TO EXPAND THE NUMBER OF MINORITIES (WOMEN) IN THE QUALIFIED LABOR FORCES.

Please see Appendix A for possible measures.

### Section 3 - Recruitment

#### A. IDENTIFYING RECRUITMENT DEFICIENCIES

##### 1. General Applicant Flow Analysis - Part I (Report H, Part I -Appendix F)

Recruitment procedures which fail to reach potential qualified minority or female applicants act as employment barriers and contribute to underutilization. Agencies cannot employ minorities and women if their recruitment procedures are not attracting minority and female applicants.

To determine if inadequate numbers of minority (female) applicants contribute to utilization deficiencies, an applicant flow analysis will be conducted. Part I of this analysis will determine if as many minorities and women are applying for various jobs\* as could be expected on the basis of their availability for employment.

Like the Utilization Analysis, this analysis will be computerized and conducted annually for each agency from personnel/payroll data and applicant data supplied by the agencies. EACH AGENCY SHALL PROVIDE REQUIRED DATA NOT AVAILABLE ELSEWHERE. (SEE CHAPTER IV FOR DATA COLLECTION AND RETENTION REQUIREMENTS).

Also like the utilization analysis, this analysis is a comparison. It compares the agency's representation of minorities (women) among applicants with their representation in the available labor force.\*\*

As in the Utilization Analysis, a parity number is calculated. This parity number is the number of minority (female) applicants the agency could be expected to have for a job based on their labor force availability. It is compared with the number the agency actually has. PRIORITY 1 JOB GROUPS (AS IDENTIFIED BY THE UTILIZATION ANALYSIS) WITH FEWER MINORITY (FEMALE) APPLICANTS THAN COULD BE EXPECTED BASED ON THEIR AVAILABILITY (AS IDENTIFIED BY PART I OF THE GENERAL APPLICANT FLOW ANALYSIS) SHALL BE TARGETED FOR AFFIRMATIVE RECRUITMENT MEASURES.

\* This analysis will be run for individual classifications as well as for occupational groups and EEO-4 categories.

\*\* For this comparison (like the Utilization Analysis) the minority (female) representation of the total labor force will be used as the availability figure for relatively unskilled jobs and for technical, skilled, and professional jobs with a large minority (female) availability. The minority (female) representation of the qualified labor force will be used as the availability figure for all technical, skilled and professional jobs with a disproportionately small minority (female) availability. (See page 10.)

2. Internal Applicant Flow Analysis Part 1 (Report I, Part 1 Appendix F)

An internal applicant flow analysis also will be conducted to determine if an agency's own minority (female) employees are applying for higher level jobs in numbers consistent with their availability. Like the General Applicant Flow Analysis, this analysis will compare the representation of minorities (women) among internal applicants for a job with their representation in the internal availability pool (all those in lower-level, related classifications who would ordinarily qualify for the job).

3. Other Analyses

In addition to the above, employee/applicant complaints and exit interviews should be reviewed to identify further recruitment problems. Agencies with employee equal opportunity advisory committees should request committee comments on recruitment procedures.

B. IDENTIFYING EFFECTIVE RECRUITMENT METHODS - RECRUITMENT METHOD ANALYSIS  
(Report C - Appendix F)

A Recruitment Method Analysis will be conducted annually by computer to identify recruitment measures used in the past which attracted the greatest number and percentage of minority, female and handicapped applicants. EACH AGENCY SHALL PROVIDE REQUIRED APPLICANT DATA. Please see Chapter IV.

C. AFFIRMATIVE RECRUITMENT MEASURES

1. For Minorities and Women:

Utilization deficiencies which have been at least partially caused by failure of recruitment practices to reach adequate numbers of minority and/or female applicants can usually be corrected (at least in part) by affirmative recruitment procedures.

THE AFFIRMATIVE ACTION PLAN SHALL SPECIFY ACTION ITEMS TO INCREASE THE NUMBER OF MINORITY (FEMALE) APPLICANTS FOR PRIORITY 1 JOB GROUPS WHICH ARE TARGETED BY THE APPLICANT FLOW ANALYSIS AS HAVING TOO FEW MINORITY (FEMALE) APPLICANTS.

These should include:

- (a) Action items specifying any of the recruitment measures listed in the Recruitment Guide (appendix B) or any other appropriate measure.
- (b) Action items specifying increased use of recruitment measures identified by the Recruitment Method Analysis (Report C) as resulting in the largest numbers of minority (female) applicants.
- (c) Action items for increasing application by minority (female) employees within the agency where the Internal Applicant Flow Analysis (Report I, Part 1) indicates they are not applying in representative numbers.



- (d) Action items specifying some type of personal contact with recruitment sources, where possible. Since personal contact with recruitment sources is usually the most effective affirmative recruitment measure, it should especially be included for all job groups with a severe minority (female) applicant deficiency.
- (e) Action items specifying internal recruitment only should be considered for job groups with a relatively large representation of minorities (women) in the internal availability pool as opposed to the external availability pool. Conversely, where the external minority (female) availability exceeds the internal availability, open recruitment should be considered.

DURING THE FIRST YEAR THESE GUIDELINES ARE IN EFFECT, APPLICANT FLOW INFORMATION WILL NOT BE AVAILABLE. CONSEQUENTLY EACH AGENCY SHALL INCLUDE AFFIRMATIVE RECRUITMENT ITEMS FOR AS MANY PRIORITY 1 JOB GROUPS AS POSSIBLE BUT ESPECIALLY THOSE WITH SEVERE UNDERUTILIZATION AND FEW MINORITY (FEMALE) APPLICANTS.

2. For the Handicapped:

A good faith effort is required to make all state jobs known and available to potential handicapped applicants.

TO ACCOMPLISH THIS, THE RECRUITMENT SECTION OF THE AFFIRMATIVE ACTION PLAN SHALL SPECIFY ACTION ITEMS TO INCREASE THE NUMBER OF HANDICAPPED APPLICANTS FOR ALL AGENCY JOBS. THESE MAY INCLUDE ACTION ITEMS SPECIFYING APPROPRIATE MEASURES LISTED IN THE RECRUITMENT GUIDE (APPENDIX B) OR ANY OTHER APPROPRIATE ACTION ITEM.

## Section 4 - Selection

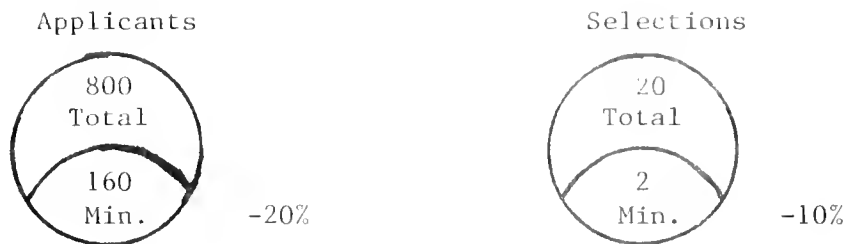
### A. IDENTIFYING SELECTION DEFICIENCIES - AFFECTING MINORITY AND FEMALE APPLICANTS.

#### 1. General Applicant Flow Analysis - Part 2 (Report H, Part 2 - Appendix F)

One of the most common causes of utilization deficiencies is unnecessary and/or vague selection criteria which act as barriers to women and minorities once they have applied for a job.

Part II of the general applicant flow analysis will identify job groups\* from which minority (female) applicants are being disqualified in disproportionate numbers. Like the other analyses, this analysis is a comparison. It compares the minority (female) (age-40-and-over)\*\* representation among selections with the minority (female) representation among applicants.

For example, part III of the Applicant Flow Analysis would make the following comparison:



The minority representation of applicants (160/800 or 20%) is compared with the minority representation among selections (2/20 or 10%).

Where minorities appear to be underrepresented among selections in comparison with their representation among applicants, as in this case, (10% is smaller than 20%) a parity number is calculated. The parity number is the actual number of minority selections that could be expected given their applicant availability if no employment barriers exist. In this case, their applicant availability was 20%, so 20% of the selections, (.20 x 20 selections) or 4 selections should have been minorities (instead of 2.) if no minority barriers exist.

Where this is the result, a formula similar to that prescribed by the federal Uniform Selection Guidelines is used to determine if this discrepancy is significant. The minority representation among selections (10%) is divided by the minority representation among applicants (20%) to determine if the minority representation among selections is at least 80% of that among applicants. A minority selection representation which is less than 80% of the minority applicant representation is considered significantly deficient.

\* This analysis will be run for individual classifications as well as occupational groups and EEO-4 categories.

\*\* This analysis is being conducted for older applicants as well as minorities and women to explore the possibility that they are also systematically excluded. (See page 11).

PRIORITY 1 JOB GROUPS WITH SIGNIFICANTLY DEFICIENT MINORITY (FEMALE) SELECTIONS (AS INDICATED BY PART 2 OF THE GENERAL APPLICANT FLOW ANALYSIS) SHALL BE TARGETED FOR FURTHER ANALYSES AND AFFIRMATIVE SELECTION MEASURES.

Like the other analyses, this analysis will be computerized and conducted annually for each agency from personnel/payroll data and applicant data supplied by the agencies. EACH AGENCY SHALL PROVIDE REQUIRED DATA NOT AVAILABLE ELSEWHERE. SEE CHAPTER IV FOR DATA COLLECTION AND RETENTION REQUIREMENTS.

2. Internal Applicant Flow Analysis - Part 2 (Report I, Part 2 - Appendix F)

An internal applicant flow analysis also will be conducted centrally by computer to determine if an agency's own minority (female) employees who apply for jobs are being selected in proportionate numbers. This analysis titled "Internal Applicant Flow Analysis - Part 2" will compare the minority (female) representation among internal applicants with the minority (female) representation among internal applicants who were selected.

B. IDENTIFYING SELECTION DEFICIENCIES - AFFECTING HANDICAPPED APPLICANTS (HANDICAPPED APPLICANT SELECTION GUIDE - FORM A)

Because of the small number of handicapped applicants and hires and the special handicap accommodation requirements, an applicant flow analysis like that used for minorities and women is not practical. Instead of assessing the affect of selection procedures on handicapped applicants statistically, the affect on each individual applicant must be analyzed.

EACH AGENCY SHALL ANALYZE ANY JOB CRITERION WHICH IS RESULTING IN THE REJECTION OF A KNOWN HANDICAPPED APPLICANT\* FOR REASONS RELATED TO THE HANDICAP ON A CASE BY CASE BASIS. THIS ANALYSIS SHALL DETERMINE IF THE CRITERION IS ESSENTIAL TO THE SAFE AND EFFICIENT OPERATION OF THE AGENCY AND IF IT CAN BE ELIMINATED OR MODIFIED OR SATISFIED BY SOME TYPE OF ACCOMMODATION. THE ANALYSIS SHALL BE CONDUCTED IN ACCORDANCE WITH THE SELECTION HANDBOOK TO BE ISSUED BY THE PERSONNEL DIVISION, OR THE FEDERAL UNIFORM SELECTION GUIDELINES, BEFORE A FINAL REJECTION IS MADE.

ANALYSES SHALL BE RECORDED ON THE HANDICAPPED APPLICANT SELECTION GUIDE - FORM A (APPENDIX F) AND REVIEWED ANNUALLY BY THE EEO SECTION.

\* This analysis should be conducted for applicants who are visably handicapped as well as for those who identify themselves as handicapped on the state application or in the interview.

C. AFFIRMATIVE SELECTION MEASURES FOR MINORITIES AND WOMEN

The federal Uniform Selection Guidelines provide employers with two major options when their selection procedures contribute to underutilization by barring disproportionate numbers of minority or female applicants. These are 1) correct the disparate effects by consciously hiring greater numbers of minorities (women) who have basic qualifications or 2) identify the specific selection criteria responsible and either (a) replace them with criteria which have no disparate effects or (b) demonstrate that they are essential because they are valid predictors of job success and not replaceable by equally valid criteria which would have less disparate effects.

For the first year these guidelines are in effect, applicant flow analyses will not be available (data must be collected for one year before it can be analyzed). Consequently it will be uncertain that selection practices as opposed to recruitment or other practices are the major cause of underutilization. However, in the absence of an applicant flow analysis, the federal guidelines require an employer to assume that selection barriers at least contribute to utilization deficiencies and to take corrective measures.

BEFORE APPLICANT FLOW RESULTS ARE AVAILABLE, AGENCIES SHALL COMPLY WITH THE FEDERAL REQUIREMENTS BY SELECTING ONE OF THE TWO AVAILABLE OPTIONS FOR ALL PRIORITY 1 JOB GROUPS (AS TARGETED BY THE UTILIZATION ANALYSES).

AFTER APPLICANT FLOW RESULTS ARE AVAILABLE, AGENCIES MAY RESTRICT IMPLEMENTATION OF THESE OPTIONS TO PRIORITY 1 JOB GROUPS WITH SIGNIFICANTLY DEFICIENT MINORITY (FEMALE) SELECTIONS (AS INDICATED BY PART 2 OF THE GENERAL APPLICANT FLOW ANALYSIS).

OPTION 1:

UTILIZE RACE (SEX) CONSCIOUS MEASURES UNTIL UNDERUTILIZATION IS CORRECTED. UNDER THIS OPTION THE AGENCY WOULD INCLUDE THE ACTION ITEMS SPECIFIED BELOW.

For non-merit positions:

1. AN ACTION ITEM FOR INSURING THAT MINORITY (FEMALE) APPLICANTS ARE GIVEN ADEQUATE CONSIDERATION.

This might involve a commitment to interview all or at least a representative number of minority (female) applicants who meet minimum qualifications or their equivalent.

2. MINORITY (FEMALE) SELECTION GOALS.

MINORITY (FEMALE) SELECTION GOALS SHALL BE ATTAINABLE PERCENTAGES OF ALL SELECTIONS.

For professional, technical and skilled jobs with a disproportionately small minority (female) availability the goal should be at least equal to the minority (female) percentage of the qualified labor force (the qualified availability index).

For unskilled jobs and professional technical skilled jobs with a disproportionately large minority (female) availability the goal should be at least equal to the minority (female) percentage of the total labor force of the recruitment area(s), as calculated for the total utilization analysis (total labor force availability index).

In no case should the percentage be so high as to preclude the selection of all white or male applicants.

IN SOME CASES GOALS MAY BE ESTABLISHED FOR LOWER LEVEL, "FEEDER" POSITIONS RATHER THAN A HIGHER LEVEL UNDERUTILIZED POSITION. THIS PROCEDURE MAY BE FOLLOWED WHERE MOST OPENINGS IN THE UPPER LEVEL POSITIONS ARE FILLED THROUGH INTERNAL PROMOTION FROM ONE OR MORE LOWER LEVEL POSITIONS WHICH THEMSELVES HAVE NO MINORITIES (WOMEN) WHO COULD BE PROMOTED OVER THE NEXT YEAR. IN THIS INSTANCE, GOALS SHALL BE ESTABLISHED FOR THE LOWER LEVEL POSITIONS FROM WHICH IMMEDIATE PROMOTIONS ARE MADE.

3. ACTION ITEMS SPECIFYING RACE/SEX CONSCIOUS MEASURES FOR REACHING THE SELECTION GOALS.

These should allow for conscious selection of minority (female) applicants from among qualified applicants who meet minimum qualifications or their equivalent. For entry level positions the selection need not be from the "best qualified" group. Since selection procedures for most state positions have not been professionally developed or validated, there is no assurance that they can accurately distinguish best qualified applicants from qualified applicants. Where selection procedures cannot be demonstrated to accurately make this distinction, race/sex should be considered for all applicants with essential educational and/or experience requirements or their equivalent.

For promotional positions race/sex should only be considered for the top equally qualified applicants. This restriction is recommended for two reasons: 1) employees have more recognized job rights than external applicants and affirmative action measures which adversely impact the rights of a relatively small identifiable group of non-minority employees should be avoided; 2) much more performance information is available on employees than external applicants permitting more accurate assessments.

WHERE GOALS HAVE BEEN ESTABLISHED FOR LOWER LEVEL, "FEEDER" POSITIONS, ACTION ITEMS MAY SPECIFY RACE/SEX CONSCIOUS MEASURES FOR THEM INSTEAD OF THE HIGHER LEVEL POSITIONS.

For merit positions:

1. MINORITY (FEMALE) SELECTION GOALS.

Minority (female) selection goals should be established in the same way as goals for non-merit jobs indicated above.

2. AN ACTION ITEM SPECIFYING USE OF RACE (SEX) CONSCIOUS PROCEDURES ESTABLISHED BY THE MERIT SYSTEM TO ASSIST AGENCIES IN MEETING AFFIRMATIVE ACTION GOALS.

Merit System rules allow for the selective certification of up to five minorities and women for priority 1 job groups.

OPTION 2:

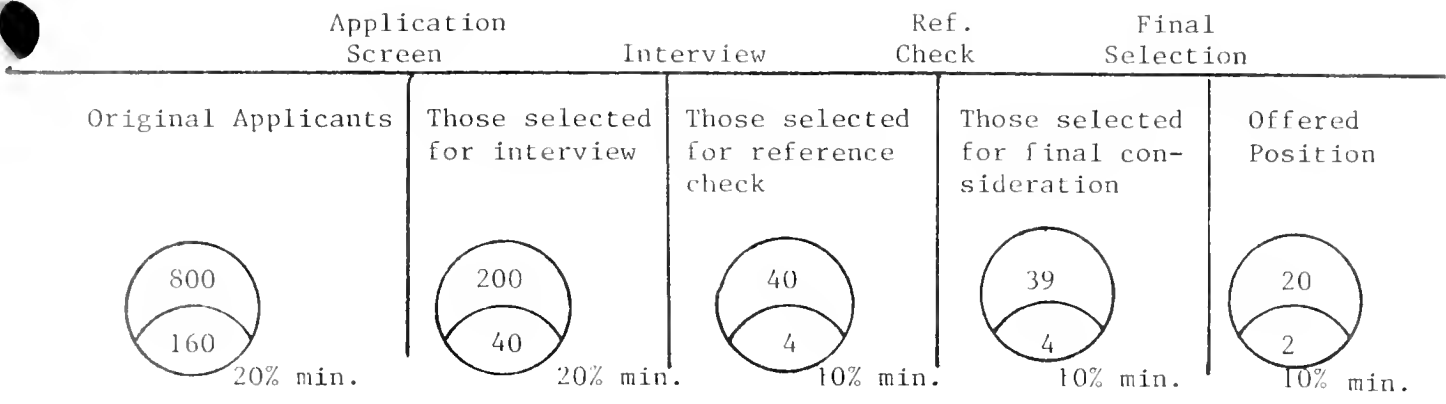
UTILIZE RACE (SEX) CONSCIOUS MEASURES ON AN INTERIM BASIS, BUT BEGIN A PROGRAM TO (1) IDENTIFY SELECTION CRITERIA WHICH SCREEN OUT DISPROPORTIONATE NUMBERS OF MINORITIES (WOMEN), (2) DETERMINE IF THEY CAN BE ELIMINATED OR REVISED, (I.E. DETERMINE IF THEY ARE CRITICAL TO ADEQUATE JOB PERFORMANCE), (3) WHERE POSSIBLE, ESTABLISH ALTERNATIVE CRITERIA AND MEASURES WHICH WILL SELECT WELL-QUALIFIED CANDIDATES WITHOUT SCREENING OUT DISPROPORTIONATE NUMBERS OF MINORITY (FEMALE) CANDIDATES, AND (4) REPLACE RACE/SEX CONSCIOUS PROCEDURES WITH THESE ALTERNATIVE MEASURES WHEN DEVELOPED.

UNDER OPTION 2 THE FOLLOWING ACTION ITEMS SHALL BE INCLUDED:

1. AN ACTION ITEM COMMITTING THE AGENCY TO CONDUCT A DETAILED APPLICANT FLOW ANALYSIS TO IDENTIFY THE SELECTION CRITERIA RESPONSIBLE FOR DISPROPORTIONATE MINORITY (FEMALE) REJECTIONS.

The detailed applicant flow analysis first compares the minority (female) percentage among original applicants with the minority (female) percentage of those who have passed each stage of the selection process to determine which stage, if any, disqualified disproportionate numbers of minority (female) applicants.

For example the following comparison would be made if an agency has four selection stages for a job: (1) an applicant screen to identify those who meet the selection criteria for interview; (2) the interview to better identify the two or three candidates who most closely match optimal criteria; (3) a reference check to verify the information provided; (4) a final selection.



In this example the interview was the only stage responsible for disqualifying disproportionate numbers of minority applicants. It reduced the minority representation from 20% to 10%. The remaining stages had no effect.

Agencies with two basic selection stages - an application screen to determine who will be interviewed; an interview to determine who will be hired - can rely on the central computerized applicant flow analysis for the first part of their analysis. Agency data must be collected and analyzed for the second part - see below.

The second part of the detailed applicant flow analysis identifies the criterion or criteria responsible. The way in which this is done will depend upon the agency's selection procedures.

In this case, if interviewees were scored or rated on each criterion, the average score or rating for minorities (women) could be compared with the average score for whites (men) to identify those criteria on which minorities (women) are scoring lower. If applicants were given only a pass/fail rating on each criterion, the percentage of minorities who passed each criterion could be compared to the percentage of whites who passed each criterion to identify those criteria which resulted in disproportionately few minority passes.

Except for merit positions the above analysis shall be conducted by the agency from agency data. Please see Chapter IV for data collection and retention requirements.

\* Form F - Appendix F may be used for collection of applicant data for the first part of the Detailed Applicant Flow Analysis.

This analysis assumes a structured selection process with preestablished selection criteria and standard procedures for assessing applicants on each criterion. Agencies which do not utilize a structured process should either adopt one or select option 1. Use of a well-developed structured process is strongly encouraged for its inherent value in selecting better-qualified candidates, as well as for its greater defensibility in EEO litigation.

This analysis also requires retention of records on applicant scores or pass/fail ratings for several years (See Chapter IV). Several year's worth of data will be required to do an adequate analysis for some jobs. These records are also valuable for defense purposes in EEO litigation and grievances.

Job groupings for which the Detailed Applicant Flow Analysis should be conducted depend upon agency selection procedures. If the same selection criteria and selection procedures are used for all position openings in a single classification, the analyses should be done for the entire classification. If the selection criteria used for some positions in the classification differ from the criteria used for others, the analysis should be done separately for the two groups of positions.

For merit positions the Merit System will conduct this analysis for all selection stages except the final selection from among certified eligibles. The agency should conduct the second part of the detailed applicant flow analysis for the final selection from among certified eligibles.

2. AN ACTION ITEM SPECIFYING THAT THE AGENCY WILL ANALYZE THE NEED FOR THE IDENTIFIED CRITERIA AND WHERE POSSIBLE DEVELOP ALTERNATIVE CRITERIA AND MEASURES IN ACCORDANCE WITH THE FEDERAL UNIFORM SELECTION GUIDELINES.

For Merit System positions this will require a joint effort by the agency and Merit System.

3. ACTION ITEMS SPECIFYING RACE (SEX) CONSCIOUS SELECTION MEASURES TO CORRECT THE MINORITY (FEMALE) UNDERUTILIZATION UNTIL THE ABOVE ANALYSIS HAS BEEN MADE AND ALTERNATIVE CRITERIA AND MEASURES ESTABLISHED WHERE POSSIBLE. (See page 19).



4. MINORITY (FEMALE) SELECTION GOALS

MINORITY (FEMALE) SELECTION GOALS SHALL BE THE PERCENTAGE OF SELECTIONS WHICH THE AGENCY FEELS CAN REALISTICALLY BE MINORITY (FEMALE) SELECTIONS UNDER THE RACE/SEX CONSCIOUS PROCEDURES INITIALLY USED OR UNDER THE NEW OR VALIDATED SELECTION CRITERIA SUBSEQUENTLY USED. "Goals may be recorded on the Goal Sheets - Forms B and C."

D. OTHER AFFIRMATIVE SELECTION MEASURES FOR MINORITIES AND WOMEN

IN ADDITION TO THE ABOVE, ACTION ITEMS SPECIFYING APPROPRIATE MEASURES LISTED IN THE SELECTION GUIDE (APPENDIX C) OR ANY OTHER APPROPRIATE MEASURE SHOULD BE INCLUDED.

F. AFFIRMATIVE SELECTION MEASURES FOR THE HANDICAPPED

THE FOLLOWING ACTION ITEMS SHALL BE INCLUDED IN THE AFFIRMATIVE ACTION PLAN TO INSURE ADEQUATE CONSIDERATION, REASONABLE ACCOMMODATION AND PREFERENCE IN COMPLIANCE WITH 10-2-203 MCA FOR HANDICAPPED APPLICANTS.

1. AN ACTION ITEM FOR INSURING THAT HANDICAPPED APPLICANTS ARE GIVEN ADEQUATE CONSIDERATION.

This might involve a commitment to interview all handicapped applicants who meet minimum qualifications or who would meet minimum qualifications but for the handicap.

2. ACTION ITEMS FOR INSURING THAT HANDICAPPED APPLICANTS ARE NOT REJECTED FOR REASONS RELATED TO THEIR HANDICAP, UNLESS THE HANDICAP WOULD PREVENT ADEQUATE PERFORMANCE, DESPITE REASONABLE ACCOMMODATION. THESE SHALL INCLUDE:

- a. A COMMITMENT TO EXPLAIN THE NORMAL PHYSICAL OR STRESSFUL MENTAL REQUIREMENTS OF THE JOB AND INQUIRE OF THE APPLICANT HOW THE APPLICANT WOULD COPE WITH THESE REQUIREMENTS AND WHAT ACCOMMODATIONS WOULD BE NEEDED, IF ANY, BEFORE REJECTING THE APPLICANT FOR HANDICAP-RELATED REASONS.
- b. A COMMITMENT TO ANALYZE ANY JOB CRITERION WHICH IS RESULTING IN THE REJECTION OF A KNOWN HANDICAPPED APPLICANT FOR REASONS RELATED TO THE HANDICAP BEFORE FINAL REJECTION AND TO ELIMINATE OR MODIFY ANY NON-ESSENTIAL CRITERION.

The analysis should be conducted in accordance with the selection handbook to be issued by the Personnel Division or with the federal Uniform Selection Guidelines, and recorded on Form A.

- c. A COMMITMENT TO MAKE ANY REASONABLE ACCOMMODATION WHICH WOULD ALLOW FOR ADEQUATE PERFORMANCE BY A HANDICAPPED APPLICANT OR EMPLOYEE. Accommodations might include (1) making facilities accessible through rearranging furniture, offices, etc., (2) modifying equipment such as providing a taller desk for an applicant in a wheelchair, (3) restructuring the job where the applicant can perform all but 10-15% of the duties, (4) providing occasional drivers, readers or interpreters. The agency need not provide accommodations requiring great expense or productivity loss.

A commitment to consult with the agency EEO officer and the Rehabilitation Section of SRS for suggestions on accommodations that would allow adequate performance before any handicap-related rejections should also be made. Accommodations considered should be recorded on Form A.

3. AN ACTION ITEM SPECIFYING PREFERENCE MEASURES

This should indicate that handicapped applicants will be given preference over approximately equally-qualified, non-handicapped applicants consistent with Section 10-2-203, Montana Code Annotated, requiring preference for disabled veterans and civilians.

- \* On the state application, applicants will be asked to identify themselves as handicapped for purposes of affirmative action preference, as well as for purposes of accommodation. (Inquiries about a handicap, mental or physical condition for purposes other than these are prohibited.) Agencies may require applicants who are not obviously handicapped to be certified by SRS as handicapped for purposes of preference provisions - Action items 1 and 3.

## Section 5 - Upward Mobility

### A. IDENTIFYING DEFICIENCIES IN ADVANCEMENT OPPORTUNITIES

Barriers to minority (female) advancement are a common cause of underutilization in higher level positions.

The following four analyses will help agencies identify positions which could most benefit from an upward mobility program:

#### 1. A Progression Analysis (Report J - Appendix F)

A progression analysis will be conducted centrally from available data to assist agencies in identifying their past lines of promotional progression. No additional agency data will be required.

For each classification, this analysis will indicate the number of incumbents both currently and over the past few years, the state classifications these incumbents originated from and the number which originated from each classification. (See Report J - Appendix F.)

From the progression analysis, agencies can identify underutilized classifications which have no internal line of progression (classifications for which most employees are hired externally) and examine the feasibility of establishing lower level training or bridge positions.

When the analysis shows that an underutilized classification is typically filled by promotion, the "feeder" classifications can be examined to determine if they exclude classifications with minority (female) employees from which promotions could logically be made.

#### 2. Length of Time in Grade Analysis (Report K - Appendix F)

This analysis will examine the average time all employees and minority, female and handicapped employees in each grade have spent in that grade. The analysis will be conducted centrally by computer from personnel/payroll data and data provided by the agencies. EACH AGENCY SHALL PROVIDE DATA NOT AVAILABLE CENTRALLY. (Please see Chapter IV for data collection and retention requirements).

From this analysis agencies will be able to identify pockets of minority, female, and handicapped employees who have not advanced for some time. Agencies will also be able to identify pockets of minorities/ women who have been in the same grade longer than other employees.

3. Internal Applicant Flow Analysis (Report I, Parts 1 and 2 - Appendix F)

As described in the recruitment section, the first part of this analysis will determine if an agency's own minority (female) employees are applying for higher level jobs in representative numbers. The second part, as described in the selection section, will determine if these internal minority (female) applicants are being disproportionately rejected once they have applied.

4. Other Analyses

In addition to the above, informal analyses should be sought from agency managers and employees. Agencies with employee EEO advisory committees should request committee comments on agency upward mobility programs. Exit interviews and EEO complaints should be examined to identify further barriers to advancement.

B. UPWARD MOBILITY MEASURES

WHERE THE ABOVE ANALYSES INDICATE ANY OF THE FOLLOWING CONDITIONS:

1. NO INTERNAL LINE OF PROGRESSION OR NATURAL CAREER LADDER TO PRIORITY 1 JOBS AS IDENTIFIED BY THE PROGRESSION ANALYSIS;
2. LINES OF PROGRESSION OR CAREER LADDERS TO THESE JOBS WHICH EXCLUDE CLASSIFICATIONS WITH MINORITY/FEMALE EMPLOYEES WHICH SHOULD LOGICALLY BE INCLUDED;
3. PRIORITY 1 JOBS WITH FEEDER POSITIONS WHICH ALSO HAVE A MINORITY (FEMALE) UNDERUTILIZATION;
4. A LONGER AVERAGE TIME IN GRADE FOR MINORITY/FEMALE OR HANDICAPPED EMPLOYEES THAN OTHER EMPLOYEES.
5. FAILURE OF QUALIFIED AGENCY MINORITY/FEMALE EMPLOYEES (EMPLOYEES IN FEEDER POSITIONS) TO APPLY FOR PRIORITY 1 JOBS IN REPRESENTATIVE NUMBERS.
6. DISPROPORTIONATE REJECTION OF INTERNAL MINORITY/FEMALE APPLICANTS FOR THESE POSITIONS.

A STATEMENT OF THE PROBLEM AND CORRECTIVE UPWARD MOBILITY ITEMS SHALL BE INCLUDED IN THE AA PLAN.

These should include:

- a. Any appropriate action items specifying measures listed in the Upward Mobility Guide, Appendix D, or any other appropriate action item.

- b. For conditions 1, 2, and 3 action items specifying measures to identify or create bridge positions between lower level classifications with minority/female representation and higher level priority 1 jobs to permit upward mobility into these jobs.
- c. Action items specifying measures to encourage internal applications where qualified minority (female) employees are not applying for priority 1 jobs (as indicated by Part 1 of the Applicant Flow Analysis). If openings are not posted, simply making these employees aware of openings may be sufficient.
- d. Action items for removing other identified barriers to minority female and handicapped advancement where the time-in-grade analysis or internal applicant flow analysis indicates a problem.

The time-in-grade analyses should be carefully assessed for handicapped employees since it is the only measure of equal advancement opportunities for them. The reasons a handicapped employee has been held in the same grade longer than other employees should be examined on a case-by-case basis and advancement opportunities provided where possible.

## Section 6 - On-the-Job Treatment

### A. IDENTIFYING DEFICIENCIES IN ON-THE-JOB TREATMENT

Various on-the-job personnel practices can have a disparate impact on minorities, women and the handicapped, and be both unlawfully discriminatory and sources of underutilization. Three analyses will be conducted centrally to assist agencies in identifying such personnel practices for further analysis and correction. These are as follows:

1. Merit Step Increase Analysis Report L, Appendix F

This analysis assumes that merit awards will be granted in the future in the form of step increases. If merit awards take some other form, such as a lump sum bonus, the analysis will be adapted as appropriate.

This analysis compares the average number of merit steps received by all agency employees in each EEO-4 category with the average number received by minority, female and handicapped employees in each EEO-4 category. It aids agencies in determining if merit award procedures are resulting in disproportionately few merit awards for minority/female/handicapped employees.

Agency data collection should not be required for this analysis. All necessary information should be available centrally.

2. Grade Increase Analysis Report M, Appendix F

The grade increase analysis compares the average number of grades received due to reclassification by all employees in each EEO-4 category with the average number received by minority, female, and handicapped employees in each EEO-4 category. It aids agencies in determining if reclassification procedures are resulting in disproportionately few grade increases for minority/female/handicapped employees.

Agency data collection will not be required for this analysis. All necessary information is available centrally.

3. Separation Analysis Report N, Appendix F

The separation analysis determines if minority, female and handicapped employees are separating from employment in each EEO-4 category in disproportionately large numbers. This is done by determining if their representation among separations from an EEO-4 category during a reporting period is greater than their representation among employees in the EEO-4 category at the beginning of the reporting period.

For example, if ten professional employees (4 female employees) separate from employment during the year, the female representation among separations, 4/10 or 40% would be compared with the female representation among professionals at the beginning of the reporting period. If there were 100 professionals at the beginning of the reporting period including 20 female employees, 40% would be compared with 20%. Where the female percentage of separations is greater, as in this case, a parity number is calculated. The parity number is the number of female separations there would be if they were proportional to the female percentage of employees. In this case the parity number would be  $.20 \times 10 = 2$ . Since there were 4 female separations instead of 2, female separations are disproportionately high.

Agency data collection will not be required for this analysis. All necessary information will be available centrally through payroll status forms.

#### 4. Other Analyses

In addition to the above, employee complaints and exit interviews should be reviewed to identify further personnel practices which have a disparate impact on minority, female or handicapped employees. Agencies with employee EEO advisory committees should request committee analysis.

### B. CORRECTIVE MEASURES

WHERE THE ABOVE ANALYSES INDICATE ANY OF THE FOLLOWING PROBLEMS:

1. DISPROPORTIONATELY FEW MINORITY, FEMALE, HANDICAPPED MERIT AWARDS;
2. DISPROPORTIONATELY FEW MINORITY, FEMALE, HANDICAPPED GRADE INCREASES;
3. DISPROPORTIONATELY MANY MINORITY, FEMALE, HANDICAPPED SEPARATIONS;
4. ANY OTHER PRACTICES WHICH DISPARATELY AND ADVERSELY AFFECT MINORITY, FEMALE OR HANDICAPPED EMPLOYEES,

THE AGENCY SHALL SPECIFY THE NATURE OF THE PROBLEM, THE PERCEIVED CAUSE, AND INCLUDE CORRECTIVE ACTION ITEMS IN THE AA PLAN.

The action items should be appropriate to the cause. They may involve any of the measures listed in the On-the-Job Treatment Guide or any other appropriate measures.

Section 7 - Format of the A.A. Plan

An affirmative action plan need not be elaborate, lengthy or glossy. It should be designed as a management work plan rather than a public relations document. It should identify deficiencies, probable causes of the deficiencies, and what actions will be taken by whom to correct them.

THE AGENCY AFFIRMATIVE ACTION PLAN SHALL AT A MINIMUM CONTAIN THE FOLLOWING ELEMENTS:

1. A COPY OF THE AGENCY EEO POLICY.
2. A DESCRIPTION OF PRIORITY 1 JOB GROUPS AS IDENTIFIED BY THE UTILIZATION ANALYSIS\* AND OF THEIR LOCATION IN THE AGENCY (AN AGENCY ORGANIZATION CHART SHOULD BE INCLUDED).
3. AN ANALYSIS OF WHETHER THE CAUSE APPEARS TO BE:
  - A RECRUITMENT PROBLEM: TOO FEW MINORITY/FEMALE APPLICANTS;
  - A SELECTION PROBLEM: DISPROPORTIONATE REJECTIONS OF MINORITY/FEMALE APPLICANTS;
  - AN UPWARD MOBILITY PROBLEM: INABILITY OF MINORITIES AND WOMEN AT LOWER GRADES TO ADVANCE INTO PRIORITY 1 JOBS, OR
  - A TURNOVER PROBLEM: DISPROPORTIONATE SEPARATIONS BY MINORITY/FEMALE EMPLOYEES CREATED IN PART BY DISPARITIES IN ON-THE-JOB TREATMENT.

During the first year these guidelines are in effect most statistical analyses designed to aid agencies in identifying the causes of deficiencies will not be available. Causes will need to be identified through agency brain storming sessions.

4. SPECIFIC ACTION ITEMS FOR CORRECTING IDENTIFIED PROBLEMS RESULTING IN MINORITY OR FEMALE UNDERUTILIZATION IN EACH PRIORITY 1 JOB GROUP INCLUDING RACE/SEX CONSCIOUS PROCEDURES.

ACTION ITEMS SHALL BE STATEMENTS OF SPECIFIC ACTIONS FOR CORRECTING EACH IDENTIFIED PROBLEM, THE PERSON RESPONSIBLE AND THE TARGET DATE.

Action items should be in the following general form:

Job Group - Truck Driver

Problem: Female applicants are being disqualified in disproportionate numbers because they lack experience.

<u>Action Item</u>	<u>Responsible Person</u>	<u>Target Date</u>
Waive the experience requirement and reach selection goal by hiring female applicants who can demonstrate (1) the ability to lift required, weight and (2) have a chauffeurs license.	Division Administrator	1-15-81

\* This should include all occupational groups and EEO-4 categories with underutilization as well as the group of all agency jobs if there is agency-wide underutilization.



Statements calling for analyses to identify the problem should be avoided. Analyses should be conducted in advance of developing the action items unless extensive analysis is required as in the case of the Detailed Applicant Flow Analysis.

General statements such as "Efforts will be made to insure that all managers have adequate training in upward mobility programs" should also be avoided. The statement should specify what will be done to insure this outcome. For example, the action item might specify that "all division administrators shall attend at least one training session on upward mobility during the year."

5. SELECTION GOALS FOR EACH OF THE PRIORITY 1 JOB GROUPS. THESE SHOULD BE REALISTIC PERCENTAGE GOALS BASED ON THE AVAILABILITY OF MINORITIES (WOMEN) IN THE QUALIFIED LABOR FORCE AND MAY BE RECORDED ON FORMS B AND C. (SEE THE SELECTION SECTION).
6. ACTION ITEMS FOR INSURING THAT POTENTIAL HANDICAPPED APPLICANTS ARE INFORMED OF AGENCY JOBS AND ADEQUATELY CONSIDERED.
7. ACTION ITEMS FOR REVIEWING QUESTIONABLE MINIMUM QUALIFICATIONS OF CLASSIFICATIONS IN PRIORITY 2 JOB GROUPS.
8. TWO OR THREE ACTION ITEMS FOR EXPANDING MINORITY (FEMALE) REPRESENTATION IN THE QUALIFIED LABOR FORCE FOR PRIORITY 2 JOB GROUPS. THESE SHOULD BE INCLUDED BY AGENCIES WITH RELATIVELY FEW PRIORITY 1 JOB GROUPS.
9. ACTION ITEMS SPECIFYING THE DISTRIBUTION OF THE EEO POLICY TO EMPLOYEES AND APPLICANTS AND DISTRIBUTION OF THE AA PLAN OR RELEVANT PORTIONS TO MANAGERS RESPONSIBLE FOR ITS IMPLEMENTATION.
10. ACTION ITEMS SPECIFYING PROCEDURES FOR AT LEAST A SEMI-ANNUAL REVIEW OF THE PROGRAM TO IDENTIFY DEFICIENCIES IN PLAN IMPLEMENTATION AND DEFICIENCIES IN THE PLAN ITSELF. (SEE PAGE 38).

## CHAPTER IV DATA COLLECTION AND RETENTION

### A. FIRST YEAR ANALYSES

During the first year these guidelines are in effect, only two major analyses will be run. These are:

1. Employee Inventory Report A (Described in the utilization section - Chapter III).
2. Utilization Analyses (Described in the utilization section).

These include:

- a. Total Utilization Analysis - Report D
- b. Qualified Female Availability Analysis - Report F
- c. Qualified Minority Availability Analysis - Report G
- d. Qualified Utilization Analysis - Report E

Please see Appendix F for the general format of these reports. The final reports may not be in exactly the same format.

The data collection and retention requirements for these analyses are as follows:

1. Employee Inventory

All necessary data is available in the current payroll/EEO data system. Race, sex and handicap status of new employees shall be provided by each agency yearly on a turnaround document.

Agencies may request that employees self-designate their race and handicap status to identify unknown minority and handicapped employees, but where questionable self-designations are made the final determination is the agency's responsibility. Please see definitions in the glossary. SRS certification of handicapped employees requesting preference may be requested. (See page 27).

## 2. Utilization Analysis

The utilization analysis is the only analysis which will require significant data collection by each agency. Much of the data required will be collected one time only for start up.

As indicated in the Utilization Section, the total utilization analysis will be conducted for all state positions. The qualified availability analyses will only be conducted for classifications which (1) require specialized pre-employment education and/or experience requirements and (2) are in occupational groups or EEO-4 categories identified as having affected class underutilization by the total utilization analysis. If agency-wide underutilization is found, all classifications will be included in the qualified availability analyses.

To conduct these analyses some determinations must be made and data collected for all state classifications; other determinations and data collection need only be made for some classifications as follows:

### For all classifications:

- a. occupational group designation of each classification
- b. EEO-4 category designation of each classification
- c. whether or not the classification requires specialized preemployment education and/or experience.

These determinations are made by the EEO Section in conjunction with the Classification Bureau and specified on a turnaround document for agency review. EACH AGENCY SHALL REVIEW THE DESIGNATIONS AND RECOMMEND CORRECTIONS.

Also required for all classifications are several agency estimates which will be used as weighting factors. These are as follows:

- a. Percentage of experienced applicants - those with any type of previous work experience - for each occupational group whose last work experience was in the local labor market.

- b. Percentage of experienced applicants for each occupational group whose last work experience was in Montana.
- c. Percentage of experienced applicants for each occupational group whose last work experience was outside Montana.

EACH AGENCY SHALL PROVIDE THESE ESTIMATES ON A TURNAROUND DOCUMENT TO BE ISSUED BY THE EEO SECTION. THEY NEED ONLY BE BALLPARK FIGURES. THEY DO NOT REQUIRE REVIEW OF APPLICATIONS FOR THE PAST FIVE YEARS.

For all classifications which require specialized pre-employment education and/or experience:

- a. Related, lower-level classifications

State government classifications which provide training and experience which would usually qualify someone for the classification in question.

- b. Related occupations

Occupations in which experience would usually qualify someone for the classification in question.

- c. Related degrees

Minimum degrees and degree fields which would usually qualify someone for the classification in question without any substantial experience.

While these determinations will not be needed this year for all classifications requiring specialized pre-employment education and/or experience, the classifications for which they will be needed will vary from year to year. Consequently, determinations for all such classifications should be made at this time for future use.

These determinations will initially be made by the EEO Section in conjunction with the Classification Bureau and specified in a turnaround document for agency review. EACH AGENCY SHALL REVIEW THE DESIGNATIONS AND RECOMMEND CORRECTIONS.

For classifications which are in job groupings determined to have minority or female underutilization and which require specialized preemployment education and/or experience:

- a. Estimate of percentage of applicants whose last work experience was in a related lower level classification in (1) the agency, (2) outside the agency.
- b. Estimate of percentage of applicants whose last work experience was outside state government and in related occupational group in (1) the local labor market, (2) Montana outside Lewis and Clark County, (3) outside Montana.
- c. Estimate of percentage of applicants who received related degrees in the past five years in (1) Montana and (2) outside Montana.

EACH AGENCY SHALL PROVIDE THESE ESTIMATES ON A TURNAROUND DOCUMENT TO BE ISSUED BY THE EEO SECTION. THESE NEED ONLY BE BALLPARK FIGURES. REVIEW OF PAST APPLICATIONS IS NOT REQUIRED.

B. SECOND AND SUBSEQUENT YEAR ANALYSES

The analyses to be run the second and/or subsequent years include the following:

1. Divisional Representation Analysis (Report B)
2. Recruitment Method Analysis (Report C)
3. Applicant Flow Analyses - these include:
  - a. General Female, Minority Applicant Flow Analysis, Part 1 (Report H, Part 1).
  - b. General Female Minority, Age 40 and over Analysis, Part 2 (Report H, Part 2).
  - c. Internal Female, Minority Applicant Flow Analysis, Part 1 (Report I, Part 1).

- d. Internal Female Minority Applicant Flow Analysis, Part 2 (Report I, Part 2).
  - e. Handicapped Applicant Flow Analyses (Form A)
  - f. Optional Detailed Applicant Flow Analysis (Form E).
4. Progression Analysis (Report J)
  5. Length of Time in Grade Analysis (Report K).
  6. Merit Step Increase Analysis (Report L) If applicable
  7. Grade Increase Analysis (Report M).
  8. Separation Analysis (Report N).

All analyses will be conducted centrally by the EEO section except for the Handicapped Applicant Flow Analyses (Form A) and the optional Detailed Applicant Flow Analysis (Form E). These two analyses are to be conducted by the agencies.

Several of these analyses require no additional data collection. Others (the Progression Analysis) will be postponed until data is available through the Personnel Payroll system. Ongoing collection of the following applicant flow data will be required for the Recruitment Method Analysis (Report C) and the Applicant Flow Analyses (Reports H and I):

1. classification of opening;
2. date opening was filled;
3. list of applicants;
4. whether or not each applicant is an agency employee;
5. race of each applicant;
6. sex of each applicant;
7. handicap status of each applicant;
8. year of birth of each applicant;
9. whether each applicant was selected to fill the opening;
10. how the applicant heard about the opening;

11. whether or not each applicant met the minimum qualifications for the position, and if yes, on what basis; and
12. whether or not each applicant was interviewed for the position.

There will be questions on the revised state application to collect data elements 5 through 8. Applicant data will be recorded for each opening on an applicant log - Form D (see Appendix F). This form will then be submitted to the EEO Section periodically for computer entry.

To insure an accurate picture of the applicant pool, all applicants who desire consideration for the opening must be included on the log regardless of qualifications. If applications are accepted for a specific opening only, all persons who have submitted an application must be included. If applicant files are maintained, everyone in an active file when an opening occurs in the job sought must be included.

For Merit System agencies "applicants" for Merit System positions are those persons certified by the Merit System.

## CHAPTER V

### REVIEWING THE AFFIRMATIVE ACTION PROGRAM

After the Affirmative Action Plan has been developed, it is necessary to periodically review the agency's progress toward the specified goals. Such a review will meet several objectives:

1. Insure that planned actions have been taken.
2. Provide management with feedback on the success of prior actions.
3. Provide management with data on which to base future actions.

The review should focus on results. Attention should be directed to the degree of success of past actions in achieving their desired results.

The agency EEO Program should ideally be monitored on an on-going basis. AT LEAST SEMI-ANNUALLY THE PROGRAM SHALL BE REVIEWED WITH LINE MANAGERS TO IDENTIFY DEFICIENCIES IN PROGRAM IMPLEMENTATION AND DEFICIENCIES IN THE PROGRAM ITSELF.

The following three progress reports will be provided to agencies by the EEO section of the Personnel Division to aid in the review:

1. Annual/six-month status report - female (Report O).

This report includes the following pieces of information:

- a. A comparison between the actual number of female selections (hires, transfers and promotions) into each job grouping with female underutilization and the number there should have been if selected, consistent with the agency's established percentage goal.
- b. An analysis of the applicant pool to determine if it is adequate to meet the goal.
- c. An examination of female losses by separation, promotion and transfer out of the job grouping and the resultant current female representation. No additional data collection will be necessary beyond that compiled for other reports.

2. Annual/six-month status report - minority (Report P)

This report is similar to Report O except that comparisons will be made only at the EEO-4 category level and agency level (minority goals are required for these levels only).



3. Annual/six-month status change inventory (Report Q).

This report includes the following information:

- a. Employees hired or transferred from another agency into each EEO-4 category; the classification hired or transferred into and person's racial/ethnic group and sex.
- b. Employees promoted or transferred from within the agency into each EEO-4 category; the classification promoted or transferred into, the classification promoted or transferred out of, and the employee's racial/ethnic group and sex.
- c. Employees separated from positions in each EEO-4 category, classification separated from, and the person's racial/ethnic group and sex. This report is designed to provide more detailed information on status changes over the reporting period to assist in interpreting Reports O and P.

ANNUALLY THE AFFIRMATIVE ACTION PROGRAM REVIEW SHALL INCLUDE IDENTIFICATION OF CONTINUED DEFICIENCIES, ACTION ITEMS FOR CORRECTING THEM AND DEVELOPMENT OF NEW SELECTION GOALS. THESE SHALL BE WRITTEN UP IN A PLAN FOR THE FOLLOWING YEAR AND SUBMITTED TO THE EEO SECTION FOR APPROVAL.

The EEO Section will review agency progress in meeting its affirmative action goals semi-annually at the time of the annual and semi-annual EEO reports. Recommendations will be made for implementing the current plans or for development of a new one. Technical assistance will also be provided as needed.

Following are other program evaluation methods that agencies might use:

1. Special task forces for overall or specific area review.
2. Review of EEO complaints.
3. Review of exit interviews.
4. Interviews with current employees, supervisors and management.
5. Use of voluntary questionnaires to a sample of the workforce.
6. Review by the agency equal opportunity advisory committee, if any.



# APPENDICES



**APPENDIX A**  
**GUIDE TO EXPANDING MINORITY/FEMALE**  
**AVAILABILITY IN QUALIFIED LABOR FORCES**

To help correct underutilization of minorities/women which can be attributed to disproportionate lack of minimum education and experience requirements, action items should be developed to help increase the number of minorities/women who possess the necessary requirements for priority 2 jobs. Following are some general measures from which specific action items can be developed. Where possible, agencies should concentrate their resources on measures which will produce qualified minorities and women that the agency itself has some hope of attracting or retaining (measures 1, 2 and 3).

1. Create a made-to-order pool of qualified applicants with adequate numbers of minorities (women).

This might involve providing a training course or self-study course for applicants who lack necessary knowledges, skills and abilities. This coupled with aggressive affirmative recruitment and race/sex conscious selection for the training course could produce an adequate pool.

2. Assist agency employees, including minority/female employees to obtain qualifications for occupations with few minorities (women). See measures outlined in the upward mobility guide, Appendix D.

This approach is most apt to result in qualified individuals that the agency can retain. Current employees are more aware of what agency positions involve and more apt to stay with the agency once trained.

3. Coordinate with educational institutions to set up internships for students.

Most high schools, all vocational-technical centers and most colleges operate an internship or "CO-OP" program which provides students with the opportunity to work in an agency and learn the knowledges, skills, and abilities of a particular occupation. This program would allow a student to acquire the specific minimum qualifications needed by actually performing the job in the agency's own work environment. Such an experience would often lead to a regular position in the agency when the student graduates.

4. Involve agency representatives in job fairs, career days or other programs for occupations with few minorities (women).

An agency may wish to participate in an established program such as the Montana School-College Relations Program coordinated by Montana State University's Office of Admissions or may wish to organize one itself in a location it feels appropriate. Local veterans' organizations, school counselors, job service offices and other employers would likely be willing to cooperate in such an effort.

By participating in such a program, an agency can identify itself to potential future employees and counsel them on the advantages of state employment and what the candidates may need to do to apply for a position. It would be appropriate when dealing with students to discuss coursework requirements necessary to meet minimum qualifications for employment.

5. Within schools or organizations representing potential candidates, increase visibility for some of the more difficult to fill positions.

Speakers for high school groups, Job Service World-of-Work classes or other groups may stimulate an interest in agency job opportunities among minorities or women. This measure would influence long-range availability of women and minorities in occupations they might not otherwise consider.

## APPENDIX B

### RECRUITMENT GUIDE

This guide outlines general recruitment measures from which agencies can develop specific action items to correct underutilization caused by insufficient minority or female applicants and also reach greater numbers of potential handicapped applicants.

1. Establish procedures to begin recruitment early for openings requiring affirmative recruitment.

The usual two-week recruitment period is insufficient for effective affirmative recruitment. Minority, female and handicapped organizations can be more effective referral sources if they are allowed time to announce openings at meetings and send out announcements in their organizational newsletters. Word-of-mouth dissemination of information also takes time.

2. Assign agency recruitment responsibilities to one person.

An on-going relationship with individuals in both private organizations and established referral services is the most effective avenue to useable minority/female or handicapped referrals. A single recruiter is needed to establish this relationship by making frequent contacts and providing necessary feedback and assurance that persons referred are being adequately considered and selected when possible.

A single recruiter also can be more effective in assessing the utility of referral sources and concentrating on those which provide the most useful referrals.

Program managers should work closely with the recruiter to assure that he or she has adequate job information.

3. Actively request referrals from appropriate affirmative recruitment sources for openings requiring affirmative recruitment (See attached list of Montana recruitment sources).

Minority, female and handicapped organizations as well as job service offices, college placement offices and other referral agencies routinely receive notices that a particular employer is an equal opportunity employer and desires minority, female, or handicapped referrals. Effective affirmative recruitment requires more than a one time written request or periodic job announcement. The following steps are recommended for the agency recruiter:

- If possible visit or at least call individuals providing referral services (names are provided in the list of Montana recruitment sources), describe the types of positions for which the agency will be seeking minority, female, handicapped referrals and work out appropriate procedures.

- When an appropriate opening occurs send a job announcement, but also call the contact person and verbally request referrals.
- Check back with the contact person later to see if an appropriate candidate has been located. This confirms your interest.
- Provide feedback to the persons referred. If they do not meet minimum qualifications, explain what is lacking and if possible how the necessary qualifications can be acquired.
- Provide feedback to the referring individual. Let him or her know if the persons referred are appropriate (meet minimum qualifications). Inform the referring individual of any selections.

4. Utilize minority, female, and handicapped employees in recruitment efforts.

An agency's own minority, female, and handicapped employees are a valuable resource for attracting other qualified, minority, female, handicapped applicants. They are likely to know about agency job requirements and potential applicants who can satisfy those requirements.

This resource can probably best be tapped by establishing an agency equal opportunity committee to make recommendations and work with the EEO/AA officer on all types of AA goals.

- 5. Maintain an affirmative action file of minority/female/handicapped applicants who have applied for and meet minimum qualifications for underutilized positions. When openings occur, contact these individuals. To be effective this file should be kept up to date. Persons who were determined to be unsuitable or who fail to respond should be eliminated.
- 6. For jobs near reservations, actively seek reservation applicants.
- 7. For traditionally male jobs requiring female recruitment, develop a special program to familiarize women with the job.

Following are some possible programs:

- Invite agency employees to a demonstration of what the job involves.
- Allow female employees in the agency to transfer into the position for a trial period.
- Hold an open house and job demonstration for outside women who might be interested in non-traditional jobs. This will require sufficient advance publicity and work with women's organizations.

- 8. Request review of agency positions by handicapped organizations and rehabilitation agencies to identify some that would be particularly appropriate for individuals with various handicaps. When openings occur, request referrals.



9. Create a favorable EEO image.

Minorities and women and the handicapped are more apt to apply for positions that they feel they have a chance of getting. Include minorities, women and the handicapped in all agency publications picturing people to foster an equal opportunity image.

10. When possible make agency positions more attractive to potential minority (female) (handicapped) applicants (as well as other applicants).

This can be done by offering job sharing positions, part-time positions and alternate work schedules. Scheduling flexibility often attracts highly-qualified female applicants who are combining a career with family responsibilities, as well as handicapped applicants who require flexibility.

## MONTANA RECRUITMENT SOURCES

- Section 1      Job Service Offices, Indian Talent Bank and Special Functions
- Section 2      Vo-Tech Centers
- Section 3      Colleges and Junior Colleges
- Section 4      College-Affiliated Groups
- Section 5      Indian Alliances
- Section 6      Indian Reservations
- Section 7      Handicapped Recruitment Sources
- Section 8      Other Recruitment Sources

LOCAL JOB SERVICE OFFICES

All offices offer placement services with specialists in veteran outreach, handicapped services, older worker, youth services, statewide and nationwide position advertising.

Anaconda Job Service  
307 East Park  
Anaconda, Montana 59711

Billings East Job Service\*  
624 N. 24th Street  
Billings, Montana 59101

Billings Job Service\*\*  
Branch Office  
302 N. 24th Street  
Billings, Montana 59101

Billings West Job Service  
445 S. 24th West  
Billings, Montana 59102

Bozeman Job Service\*  
220 W. Lamme  
Bozeman, Montana 59715

Butte Job Service\*  
206 W. Granite  
P.O. Box 309  
Butte, Montana 59701

Cut Bank Job Service  
513 East Main Street  
Cut Bank, Montana 59427

Dillon Job Service  
126 S. Montana Street  
Dillon, Montana 59725

Glasgow Job Service  
238 Second Avenue S.  
Glasgow, Montana 59230

Glendive Job Service  
211 S. Kendrick  
Glendive, Montana 59330

Great Falls Job Service\*  
1018 7th Street S.  
Great Falls, Montana 59405

Great Falls Job Service\*\*  
Branch Office  
513 1st Ave. S.  
Great Falls, Montana 59405

Hamilton Job Service  
333 Main Street  
P.O. Box 73  
Hamilton, Montana 59840

Havre Job Service  
416 First Street  
Havre, Montana 59501

Helena Job Service  
715 Front Street  
Helena, Montana 59601

Kalispell Job Service\*  
427 First Avenue E.  
Kalispell, Montana 59901

Lewistown Job Service  
324 W. Broadway  
Lewistown, Montana 59457

Libby Job Service  
314 California Ave.  
Libby, Montana 59923

Libby Job Service  
Branch Office  
417 Mineral Avenue  
Libby, Montana 59923

Livingston Job Service  
228 South Main  
P.O. Box 1199  
Livingston, Montana 59047

Miles City Job Service  
12 North 10th Street  
Miles City, Montana 59301

\* Staffed by special disabled veteran outreach program recruiter.

\*\* Short-term jobs only.

Local Job Service Offices (continued)

Miles City Job Service  
Branch Office  
P.O. Box 455  
Colstrip, Montana 59323

Missoula Job Service\*  
539 S. Third Street W.  
P.O. Box 5027  
Missoula, Montana 59806

Polson Job Service  
417 Main Street  
P.O. Box 970  
Polson, Montana 59860

Shelby Job Service  
402 First Street S.  
Shelby, Montana 59474

Sidney Job Service  
120 South Central  
Sidney, Montana 59270

Thompson Falls Job Service  
608 Main Street  
P.O. Box 669  
Thompson Falls, Montana 59873

Wolf Point Job Service  
122 Second Ave. South  
Wolf Point, Montana 59201

EMPLOYMENT SECURITY DIVISION SPECIAL FUNCTIONS

Native American Talent Bank  
Mr. George Henkel Coordinator

Handicap Program Specialist  
Mr. Bob Miller

Disabled Veteran Outreach Program  
Or Veteran Employment Representative  
Barron Brown

Teacher Placement officer

Nationwide/Statewide Recruitment  
Mr. A. Jack Egge

All Functions:           Employment Security Division  
                              P.O. Box 1728  
                              Helena, Montana 59601

\* Staffed by special disabled veteran outreach program recruiter.

JOB SERVICE PROGRAM OFFICES

Butte Job Service Program Office  
(WIN/CETA)\*  
105 South Idaho Street  
Butte, Montana 59701

Browning WIN Center  
Box 837  
Browning, Montana 59417

Glasgow WIN Center  
Glasgow AFB  
Box 4696  
Glasgow, Montana 59231

Helena Job Service Program Office  
(WIN/CETA)  
529 North Warren  
Helena, Montana 59601

Kalispell Program Office  
(WIN/CETA)  
P.O. Box 1395  
Kalispell, Montana 59901

Billings Job Service Program Office  
(WIN/CETA)  
1425 Broadwater Avenue, Suite E  
Billings, Montana 59102

Great Falls Job Service Program Office  
(WIN/CETA)  
1018 7th Street S.  
Great Falls, Montana 59405

Missoula Job Service Program Office  
(WIN/CETA)  
600 Kensington  
P.O. Box 4986  
Missoula, Montana 59801

- \* W.I.N. - Work Incentive Program - job training programs for recipients of aid to dependent children grants.
- \* CETA - job training (on-the-job and/or classroom) targeted to women, minorities, handicapped, economically disadvantaged persons.

VOCATIONAL-TECHNICAL CENTERS

Billings Vo-Tech Center  
Glenn Burgess, Director  
3803 Central Avenue  
Billings, Montana 59102

Butte Vo-Tech Center  
H.J. Freebourn, Director  
404 South Wyoming  
Butte, Montana 59701

Great Falls Vo-Tech Center  
Loren Frazier, Director  
James Peretti, Placement Officer  
2100 16th Avenue South  
Great Falls, Montana 59405

Helena Vo-Tech Center  
Dr. Alex Capdeville, Director  
1115 Roberts Street  
Helena, Montana 59601

Missoula Vo-Tech Center  
T.E. Downey, Director  
909 South Avenue West  
Missoula, Montana 59801

COLLEGES AND JUNIOR COLLEGES

Mrs. Toby Heimbrecht  
Placement Supervisor  
Cowan Hall  
Room 210  
Northern Montana College  
Havre, Montana 59501

Director of Placement  
Mr. Mike Gallagher  
Teacher Placement  
Rocky Mountain College  
1511 Poly Drive  
Billings, Montana 59102

Jean G. Dimich  
Coordinator, Career Planning & Placement  
Rocky Mountain College  
1511 Poly Drive  
Billings, Montana 59102

Career Placement & Planning Office  
Mr. C. Thomas Messick, Director  
Montana State University  
Bozeman, Montana 59715

Dr. Larry Hannah  
Placement & Career Planning  
Eastern Montana College  
Billings, Montana 59101

Dr. Don Hjelmseth, Director  
Career Planning & Placement Services  
University of Montana  
The Lodge, Room 148  
Missoula, Montana 59801

Ms. Joan V. Clary, Director  
Placement Services  
Western Montana College  
Dillon, Montana 59725

V.J. Beneventi, Director  
Placement, Testing, & Counseling  
Carroll College  
Helena, Montana 59601

Women's Resource Center  
Lydia Vizcaya, Coordinator  
University Center  
University of Montana  
Missoula, Montana 59801

Flathead Valley Community College  
P.O. Box 1174  
Kalispell, Montana 59901

Admissions Office  
Dawson Community College  
Box 421  
Glendive, Montana 59330

Northern Montana College  
c/o Placement Bureau  
Havre, Montana 59501

College of Great Falls  
1301 20th Street  
Great Falls, Montana 59405

Dr. Slower, President  
Miles City Community College  
2715 Dickenson  
Miles City, Montana 59301

Placement Director  
Gustav Stolz, Jr.  
Montana College of Mineral Sciences &  
Technology  
Butte, Montana 59701

INDIAN COMMUNITY COLLEGES

Fort Peck Community College  
Robert Dumont, Jr.  
Poplar, Montana 59255

Ms. Carol Juneau, President  
Blackfeet Indian Community College  
Browning, Montana 59417

Little Bighorn College  
Avis Three Irons  
P.O. Box 370  
Crow Agency, Montana 59022

Mr. Jow McDonald, President  
Salish-Kootenai Community College  
Round Butte Road  
Pablo, Montana 59855

Dull Knife Memorial College  
Don Bishop  
Dean of Students  
Lame Deer, Montana 59042

COLLEGE-AFFILIATED GROUPS

Women's Resource Center  
Lydia Vizcaya, Coordinator  
University Center  
University of Montana  
Missoula, Montana 59801

Native American Studies  
Elaine Clayborn, Director  
730 Eddy Avenue  
University of Montana  
Missoula, Montana 59801

Black Student Union  
1010 Arthur  
University of Montana  
Missoula, Montana 59801

Adult Student Services &  
Focus on Women  
Scottie Giebink, Director  
Montana State University  
Bozeman, Montana 59715

Robert Peregoy  
Center for Native American Studies  
Montana State University  
Wilson Hall 2-152  
Bozeman, Montana 59715

Indian Counselor  
Pamela Phillips  
Northern Montana College  
Havre, Montana 59501

Phyllis Waldenbing  
Indian Studies Program  
Rocky Mountain College  
Billings, Montana 59102

Merle Lucas  
Carroll College  
Indian Studies Program  
Helena, Montana 59601

Bob Wright  
College of Great Falls  
Great Falls, Montana 59405

Eastern Montana College  
Ms. Lavoone French  
Director of Indian Career Services  
Billings, Montana 59102

Ms. Sue Mathews  
Director, Women's Studies & Services  
Eastern Montana College  
Billings, Montana 59102

E.M.C. Hispanic Club  
c/o Dean of Students  
Eastern Montana College  
Billings, Montana 50102

George Shryock  
Special Services Counselor  
Flathead Valley Community College  
Kalispell, Montana 59901



URBAN INDIAN ALLIANCES

Debbie Morley, Director  
Anaconda Indian Alliance  
209 East Park  
Anaconda, Montana 59711

North American Indian League  
Jay Hackley, Director  
P.O. Box 7  
Deer Lodge, Montana 59722

Madeline Colliflower, Director  
Billings American Indian Council  
Billings Indian Center  
3516 Montana  
Billings, Montana 59101

Montana United Indian Assoc.  
Ben Bushyhead, Director  
P.O. Box 5988  
Helena, Montana 59601

Jack Pipe, Director  
North American Indian Alliance  
12 East Galena  
Butte, Montana 59701

Ron Belcourt  
Hi-Line Indian Alliance  
Post Office Building  
3rd St. & 3rd Ave.  
Havre, Montana 59501

Ed Kennedy, Director  
Helena Indian Alliance  
436 North Jackson  
Helena, Montana 59601

Ed Lamere, Director  
Great Falls Indian Alliance  
Great Falls Indian Education Center  
125 Commercial  
Great Falls, Montana 59401

Robert Van Gunten  
Qua Qui Corporation  
401 W. Railroad  
Missoula, Montana 59801

Ernie Bighorn, Director  
Indian Development and  
Educational Alliance  
Box 726  
Miles City, Montana 59301

INDIAN RESERVATIONS

Rocky Boy Reservation  
Business Committee of Chippewa-Cree Tribe  
Rocky Boy Route  
Box Elder, Montana 59521

Flathead Reservation  
Confederated Salish and Kootenai Tribe  
Tribal Business Office  
Flathead Reservation  
Pablo, Montana 59855

Blackfeet Reservation  
Blackfeet Tribal Business Council  
Browning, Montana 59417

Crow Reservation  
Crow Tribe of Indians  
P.O. Box 170  
Crow Agency, Montana 59022

Fort Belknap  
Mr. John Allen, Chairman  
Fort Belknap Community Council  
Fort Belknap Agency  
Harlem, Montana 59526

Northern Cheyenne  
Employment & Training Program  
P.O. Box 153  
Lame Deer, Montana 59043

Fort Peck Reservation  
Assiniboine and Sioux Tribes of the  
Fort Peck Indian Reservation  
P.O. Box 1027  
Poplar, Montana 59255

Jack Old Horn  
Director Personnel  
Box 159  
Crow Agency, Montana 59022

HANDICAPPED RECRUITMENT SOURCES

Mr. Robert Sexton  
Vocational Counseling Section  
U.S. Veterans Administration  
Fort Harrison, Montana 59636

Mr. John Sloan  
Disabled American Veterans  
Fort Harrison, Montana 59636

Mr. Tony Cummings  
American Legion  
Pioneer Memorial Building  
Helena, Montana 59601

Mr. Art Tyler  
Veterans of Foreign Wars  
Fort Harrison, Montana 59636

Mr. Gary Lewis  
Chief Veteran Service Officer  
Fort Harrison, Montana 59636

W.R. Donaldson, Administrator\*  
Rehabilitative Services Division  
SRS Building, 111 Sanders  
Helena, Montana 59601

Mr. Gordon Jackson  
Eastern Montana Industries  
Box 636  
Miles City, Montana 59301

Dain Christianson  
Milk River, Inc.  
501 1st Ave. South  
Glasgow, Montana 59230

Richland Opportunities  
Route 1, Box 144A3  
Sidney, Montana 59270

Sidney Sheltered Workshop  
P.O. Box 645  
Sidney, Montana 59270

Glen-Wood, Inc.  
127 1st Ave. East  
Plentywood, Montana 59254

Connie Green  
Big Sandy Activities  
Box 423  
Big Sandy, Montana 59520

Graydon Moll  
Blackfoot D.D. Program  
Box 247  
Browning, Montana 59417

Jim McGarry  
P.T. Activities, Inc.  
P.O. Box 1413  
Conrad, Montana 59426

Art Anderson  
Cut Bank D.D. Corporation  
Box 681  
Cut Bank, Montana 59427

Ted Horras  
Easter Seal Adult Trng. Center  
4400 Central Ave.  
Great Falls, Montana 59405

Pat Lockwood  
Blaine County Activities  
P.O. Box 457  
Harlem, Montana 59526

Gary Nimick  
Havre Day Activity Center  
P.O. Box 1847  
Havre, Montana 59501

Gail Neal  
Billings Sheltered Workshop  
200 South 24th Street  
Billings, Montana 59101

\* Will mail job announcements out to handicapped organizations.

Handicapped Recruitment Sources (continued)

Charles Super  
Regional Services for the Disabled  
P.O. Box 31253  
Billings, Montana 59103

Edna Noenning  
Special Skills Training Area  
Billings Workshop, Inc.  
200 South 24th Street  
Billings, MT 59101

Bill Crivello  
Flathead Industries  
305 3rd Avenue East  
Kalispell, Montana 59901

Darvin Brockway  
Lincoln County Sheltered Workshop  
101 Mineral Avenue  
Libby, Montana 59923

Laura Cork  
MDDCHC  
500 East Alder  
Missoula, Montana 59801

Jim Atkins  
Opportunity Workshop  
1005 Marshall  
Missoula, Montana 59801

Patrick Zoerner  
Special Citizens Center  
P.O. Box 589  
Ronan, Montana 59864

Brian Lang  
AWARE, Inc.  
P.O. Box 78  
Anaconda, Montana 59711

Gary Pagnotta  
REACH, Inc.  
P.O. Box 1944  
Bozeman, Montana 59715

Bob Kissell  
Butte Sheltered Workshop  
207 S. Montana  
Butte, Montana 59701

Gary Leonardson  
Chance, Inc.  
514 S. Pacific  
Dillon, Montana 59725

Bill Murray  
Helena Industries  
1325 Helena Avenue  
Helena, Montana 59601

Barbara Rust  
Counterpoint, Inc.  
Box 968  
Livingston, Montana 59047

Mr. John Filz  
Ravalli Services Corp.  
Box 287  
Hamilton, Montana 59840

Art Dreiling  
Little Bitterroot Special Services  
Box 310  
Hot Springs, Montana 59845

Handicapped Recruitment Sources (continued)

Bob Frazier, Coordinator  
Handicapped Students  
Room 212, Montana Hall  
Montana State University  
Bozeman, Montana 59715

Joe Vasek, President  
Coalition for Disabled  
142 Prickett  
Billings, Montana 59102

Arthritis Foundation (Midland Chapter)  
Dorothy Hye, Secretary  
1201 Avenue  
Billings, Montana 59101

Butte Epileptic Association  
Denise Kagie, President  
2034 Locust  
Butte, Montana 59701

Handicapped Students Club  
Roger Miller, President  
3824 Mount  
Missoula, Montana 59801

Montana Association for the Blind  
Tony Persha, President  
Box 713  
Red Lodge, Montana 59068

Montana Association for the Deaf  
Edward G. Van Teghem, President  
5309 7th Avenue South  
Great Falls, Montana 59405

Montana Association for Retarded Citizens  
Ed Wilkinson, President  
Drawer 519  
Boulder, Montana 59632

Montana Coalition of Handicapped Individuals  
Jack Carver, President  
309 S. California  
Helena, Montana 59601

Montana Diabetes Association  
Stanlee Dull, Field Representative  
128 13th Ave. S.  
Great Falls, Montana 59405

Montana Heart Association  
510 First Avenue North  
Great Falls, Montana 59401

Cerebral Palsey Association  
H. P. Brown  
2733 Fern Drive  
Great Falls, MT 59404

OTHER RECRUITMENT SOURCES

HELENA AREA

Montana State Law Income Organization  
436 North Jackson  
Helena, Montana 59601

Mr. Milo Westburg  
Rocky Mountain Development Council  
Neighborhood Center  
Helena, Montana 59601

Helena Women's Center  
146 E. 6th Ave.  
Helena, Montana 59601

Helena Friendship Center  
1503 Gallatin  
Helena, Montana 59601

Montana Senior Citizens Assoc.  
616 Helena Ave.  
Helena, Montana 59601

Candice Brown  
Human Resources Development Institute  
AFL-CIO  
Box 1176  
Helena, Montana 59601

North American Indian League  
Montana State Prison  
c/o P.O. Box 1176  
Helena, Montana 59601

OTHER RECRUITMENT SOURCES STATEWIDE

Women in Transition YWCA  
1130 West Broadway  
Missoula, Montana 59801

Glen Kennison  
Job Placement Officer  
Montana State Prison  
Box 7  
Deer Lodge, Montana 59722

Montana School for the Deaf & Blind  
3911 Central  
Great Falls, Montana 59401

Jim Gonzales, Director  
Montana Migrant Council  
2406 6th Ave. North  
Billings, Montana 59103

Life Skills Training Center  
Building T-16  
Fort Missoula, Montana 59801

Trapper Creek Job Corps  
Darby, Montana  
(Specializes in Vietnamese and  
Laotian education.)

Kicking Horse Job Corps Center  
Ronan, Montana  
(All Indian enrollees.)

Anaconda Civilian  
Conservation Corps  
Anaconda, Montana 59711

Check your telephone directory  
for local offices of:

- Montana Migrant Council
- Human Resource Development Councils
- Sheltered Workshops
- Women's Centers
- Senior Citizen Organizations

## APPENDIX C

### SELECTION GUIDE

The most common measures for correcting underutilization caused by disproportionate rejection of minority and female applicants are outlined in the body of the guidelines. These are (1) race/sex conscious measures to overcome barriers created by selection criteria that have not been shown to be essential and (2) measures to determine specifically what criteria are acting as barriers (disqualifying disproportionate numbers of minorities/women) and measures to analyze the need for these criteria and remove or replace those which are not essential (these are the measures required by the Uniform Selection Guidelines).

The body of the Affirmative Action Guidelines also contains measures for assuring that handicapped applicants are adequately considered and not unnecessarily rejected for reasons related to their handicap.

The following are other possible selection measures from which the agency may develop specific action items:

1. Utilize women and minority group members and handicapped persons on evaluation panels or interview boards for priority 1 jobs.

If selection criteria are well-defined and procedures for measuring each applicant against the criteria are well-developed, all members of an evaluation panel should arrive at similar assessments and personal biases should be reduced. Studies have shown, however, that even under the best circumstances interviewer biases or stereotypes color evaluations. For example, taller male applicants tend to be rated higher than shorter applicants.

To offset this tendency, persons who are less likely to hold common stereotypes should be included on evaluation panels or interview boards for underutilized jobs.

2. Provide selection training to persons on evaluation panels or interview boards.

Trained persons should be more objective in their assessments, less likely to let personal biases interfere, and better able to select candidates who can best perform the duties of a position.

3. Instead of hiring for a priority 1 job, create a lower level training position with reduced requirements and hire for it.

An agency which cannot recruit minority/female applicants who already possess essential knowledge, skills, and abilities can take this approach to producing its own highly qualified minority/female candidates.

This approach is particularly useful for positions with unique duties or procedures which must be learned on the job in any event. It also may be the only practical approach for hard-to-fill positions. In most cases it would be more practical than providing training (other than self-study training) to numerous applicants as suggested in the Recruitment Guide.

Vocational-technical centers offer an "Emergency Occupations Program" which should be examined. This program allows Vo-Tech centers to devise training programs to meet the needs of employers experiencing a shortage of qualified applicants in any field that can be learned in 2 years or less. Special public monies are available for financing.

A state apprenticeship program for skilled positions also should be considered.

4. Eliminate unnecessary job criteria which have been found by the courts to have a disparate impact on minority/female candidates.

Before the results of the detailed applicant flow analyses are available, the impact of job criteria on an agency's actual minority/female applicants will be unknown. The following employment criteria have been found by the courts to have a disparate impact on the minority/female applicants of other employers. Absolute requirements that applicants meet these criteria, as well as preference for applicants who meet these criteria, should consequently be eliminated unless clearly essential for a particular job.

- a. A high school degree requirement and other general degree requirements.

Several court decisions have found high school degree requirements discriminatory because they disqualified disproportionate numbers of minorities and there was no evidence that possession of a high school degree was a significant predictor of job performance.

Generally, basic literacy is what is desired when a high school degree is required. Many persons without a high school degree possess the necessary literacy. Some persons with a high school degree do not.

General college degree requirements have the same problem. Requiring specific course work that clearly is related to job duties is preferable to a general degree requirement.

- b. Freedom from arrest or conviction.

A requirement of no arrests was ruled unlawful where it disqualified disproportionate numbers of minority applicants. Since an arrest is not a conviction or an indication of guilt, employers have not been able to justify its use.

A federal court also has ruled that conviction by itself should not constitute an absolute bar to employment. An employer should consider the relationship between the nature of the act resulting in conviction and the requirements of the job.

- c. Good credit rating, home and car ownership.

These requirements have been found to disqualify disproportionate numbers of minorities who tend to be in low income brackets and to unlawfully discriminate where their utility as a predictive measure could not be demonstrated.



d. A particular marital or family status.

Requiring someone to be or preferring someone to be of a particular marital status can be sex discrimination if only women are required to be of that status, i.e., single, married, or childless. In Montana, requiring or preferring a particular marital status is a violation of the marital status provision of the Montana Human Rights Act. Refusal to hire unwed parents also has been found unlawful because of its disparate impact on women.

e. Physical Requirements.

In nearly all cases, height and weight requirements have been found to be unnecessary and consequently unlawful because of their disparate impact on women and some minorities. Employers have been required to assess the actual physical ability of each applicant rather than relying on height and weight as a screening criterion.

Strength and agility requirements also have been found unlawful for some positions that did not clearly require the degree of strength or agility desired.

"Sound body and mind" requirements are overly general and unlawfully exclude handicapped applicants. All jobs likely can be performed by individuals with a handicap of some type. Specific physical or health requirements will exclude individuals with certain handicaps and must be clearly essential to the safe and efficient operation of the agency.

## APPENDIX D

### UPWARD MOBILITY GUIDE

The following are possible upward mobility measures from which agencies may develop specific action items to correct the typical problem of minority/female underutilization at higher levels of employment and overutilization at lower levels, as well as the problem of handicapped concentration at lower levels.

1. Hold periodic counseling sessions to determine the career interests of lower level employees.

This measure will identify those employees who are interested in and motivated toward advancing in their careers and will provide a pool from which employees may be drawn for an upward mobility program.

2. Evaluate the knowledges, skills, and abilities of lower level employees, and establish an informal or formal skills bank.

Many employees possess capabilities which are not required for their present positions but which qualify them for higher level positions. Others have capabilities which can be further developed through some form of training. Evaluating the types and levels of employees' capabilities will provide a data base for an upward mobility program.

3. When a priority 1 job opening occurs identify employees in the skills bank who appear to qualify. If they do not apply, counsel with them to determine why.
4. Predict, insofar as possible, future agency turnover and manpower needs in priority 1 jobs.

If the agency can anticipate vacancies before they occur, it will be able to consider the practicality of establishing "bridge" positions as a means of transition for employees from lower level positions or of setting up other training programs to qualify lower level employees.

5. Restructure lower level positions to become bridge positions.

Often lower level positions may be restructured so that they can become stepping stones to underutilized, higher-level positions. By adding some higher-level duties, lower-level positions can be enriched so that employees' capabilities can be further developed.

6. Restructure higher level positions to become bridge positions.

Often higher level positions include duties that do not require the knowledge, skills or abilities of employees at that level. These duties could be combined into a lower level training or bridge position.

7. Hire adequate numbers of minority (female) (handicapped) employees into these bridge positions using race/sex conscious procedures and handicapped preference when needed.

8. Create opportunities for lateral transfers to positions with advancement opportunities.
9. Identify and remove artificial and unnecessary barriers to career advancement from lower level to higher level positions.

"Artificial and unnecessary barriers" take many forms. They include education and experience requirements which are unnecessary. Such job requirements automatically preclude many otherwise well-qualified employees in lower level positions from consideration for higher level jobs, and prevent them from ever advancing beyond dead-end positions.

10. Integrate upward mobility and career development with work planning and performance appraisal.

A sound performance appraisal system requires that supervisors and employees mutually plan the work to be accomplished during each performance appraisal period. As the work is planned, it can be structured to provide opportunities for employees to further develop their capabilities and to qualify for higher level positions. Programs can be developed to reinforce and augment desired performance during the appraisal period. At the end of the appraisal period, supervisors and employees can evaluate the strength of newly-developed capabilities and the refinement of those which existed at the beginning of the period. At the end of the appraisal period, supervisors and employees also can assess opportunities for advancement and the effectiveness of the upward mobility program.

11. Provide training in-house or through the Personnel Division or other sources for managers and supervisors in the concepts of upward mobility and career development.

Managers and supervisors play a critical role in developing and implementing the agency's upward mobility program. It is important, therefore, that they understand and endorse the concepts of upward mobility and career development and develop the skills needed to implement an upward mobility program - employee evaluation, career counseling, job structuring.

12. Develop a formal training program or self-study program for employees who wish to apply for an underutilized position for which they currently lack the knowledge, skills and abilities. Enroll adequate numbers of minority (female) (handicapped) employees using race/sex conscious procedures and handicap preference as needed.
13. Provide funds and/or paid or unpaid time off to employees so that they might enroll in formal training developed by the agency or relevant training outside the agency.

Establish an educational leave policy.

14. Locate and advertise job-related training.
15. Acquire a career information system or access to one, such as Information System for Vocational Decisions.

## APPENDIX E

### ON-THE-JOB TREATMENT GUIDE

Disparities in on-the-job treatment of minorities and women versus other employees are both unlawful and sources of underutilization.

The following are some general measures to correct the most obvious disparities, such as disparities in the number of merit awards and grade increases granted, as well as disparities in disciplinary actions or other actions taken which might result in disproportionate minority (female) (handicapped) separations.

Specific corrective action items should be developed from these general measures:

1. Develop merit award criteria based on value to the agency rather than level of responsibility. This will help insure that merit awards are spread throughout the agency and not concentrated at the higher levels with disproportionately few women and minorities.
2. Compare position descriptions with duties actually performed to determine if positions traditionally filled by women (i.e. clerical) should be upgraded.
3. To the extent possible eliminate subjective elements in any evaluation program which allow personal biases to affect upgrades or merit awards. Utilize an evaluation program which includes well-defined performance standards.
4. Review your collective bargaining agreement for barriers to equal on-the-job treatment in areas of merit awards, upgrades and discipline; negotiate to remove any such barriers or to substitute provisions having less disparate impact.
5. The agency EEO officer should conduct or review exit interviews of all employees, if possible, to determine the reasons why women and minorities are leaving. Such interviews should be documented in sufficient detail to identify possible corrective actions. Often lack of training or perceived discrimination are major causes of costly turnover, which could be corrected.

Other corrective actions might include allowing flexible hours or job sharing arrangements, agency sponsorship of or cooperation in community programs for transportation, housing, day-care, personal counseling or other supportive services.

6. Provide adequate training and supervision to all probationary employees including female/minority/handicapped employees, to insure retention at the completion of their probationary period.
7. Planned disciplinary actions such as suspension, termination, or down grading of minority, female and handicapped employees should be reviewed by the EEO officer before they are taken to insure that they are neither discriminatory in fact or appearance.

If discharges for poor performance are made, the training provided should be reviewed to make sure it was adequate.

**APPENDIX F**  
**REPORTS AND FORMS**

Forms are prepared by the agencies

Reports are prepared centrally

## HANDICAPPED APPLICANT SELECTION GUIDE - FORM A

Agency Name \_\_\_\_\_ Completed By \_\_\_\_\_  
 Classification Title of Opening \_\_\_\_\_  
 Name of Handicapped Applicant \_\_\_\_\_ Type of Handicap \_\_\_\_\_  
 Years of Montana Residency \_\_\_\_\_  
 Has the applicant been recommended by SRS for preference? \_\_\_\_\_ yes \_\_\_\_\_ no  
 (Information taken from state application)

### SELECTION PROCESS

**I PRELIMINARY ASSESSMENT:**

			If no, specify deficiency	Is deficiency handicap related?	
	yes	no		yes	no
A. Does applicant meet minimum qualifications?					
B. If yes, is applicant being interviewed?					
C. If yes, is selection of applicant anticipated?					

**II ACCOMMODATION OF HANDICAP RELATED DEFICIENCIES:** For all handicap related deficiencies listed above, indicate all possible accommodations which **might** help applicant overcome the deficiencies. Include all those suggested by the applicant or agency EEO Officer. Indicate if the accommodations can reasonably be made.

D. Accommodations:	E. Was accommodation suggested by applicant?		F. Can accommodation reasonably be made? If no, indicate reason		
	yes	no	yes	no	Reason

**III HANDICAPPED PREFERENCE**

G. Could the handicapped applicant perform at approximately the same level as any non-handicapped applicant you anticipate selecting after any needed **reasonable** accommodations were made?      yes      no      (If an interview is required to make this assessment, one should be conducted)

If yes, the handicapped applicant should be selected in compliance with the Handicapped Civilian Preference Act, 10-2-203 MCA, (one year of Montana residency and a recommendation by the Rehabilitative Services Division of SRS can be required for preference under the act).

H. If no, what duties would the handicapped applicant be unable to perform as safely and efficiently?

I. How do these duties and a higher level of performance on each significantly contribute to the agency objectives this position is designed to accomplish?

If the duties or a higher level of performance do not significantly contribute to agency objectives, the handicapped applicant should be considered as qualified as the non-handicapped choice and selected in compliance with the Handicapped Civilian Preference Act.

**IV SELECTION RESULTS**

Was the handicapped applicant offered the position?      yes      no

Was the handicapped applicant hired?      yes      no      date

Accommodations provided, if any? \_\_\_\_\_

Date the opening was filled (First day of employment)      -67-















Agency \_\_\_\_\_

Completed by \_\_\_\_\_ Date \_\_\_\_\_

TOTAL UTILIZATION ANALYSIS

EEO-4 CAT \_\_\_\_\_

Report D

Reporting Period \_\_\_\_\_ to \_\_\_\_\_  
page \_\_\_\_\_

Occupational Group	Employees		No. of openings in the past 5 years		Opening Distribution		App. Composition		Total Labor Force Representation		App. Composition		U. S. Labor Force Rep.		Total Labor Force Availability Index		Parity No	Underrepresented with respect to total labor force representation					
	ToL	No %	Min. No %	Fem. No %	Occup. Grp. % of the tot. no. of open-ings in the EEO-4 cat. agency	County % of the apps whose last work exp. was in the county	State % of the apps whose last work exp. was in the state	U.S. % of the apps whose last work exp. was in the US-not state	Min. Fem.	Min. Fem.	Min. Fem.	Min. Fem.	Min. Fem.	Min. Fem.	Min. Fem.	Min. Fem.							
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Total category																							
Total agency																							











GENERAL FEMALE; MINORITY APPLICANT FLOW ANALYSIS - PART 1  
for EEO-4 Category \_\_\_\_\_

Impact of Recruitment Procedures on Women and Minorities

Classifications Occupational Group and EEO-4 Categories in which openings have been filled:	Total Applicant Pool		Avail. Index		Opening Distribution Weighting Factor % of Openings filled in: each of OG Classif.	Weighted Index		Parity No.		Deficiency wi Respect to the Avail. Index				
	T	Minority No. %	Female No. %	Min.		Fem.	Min.	Fem.	Min.	Fem.	Min.	Fem.		
Classification:					//////////		//////////							
////////// O.G.				////////	//////////		////////							
////////// O.G.				////////	//////////		////////							
////////// O.G.				////////	//////////		////////							
Total EEO-4 Category	2	3	4	5	6	7	8	10	11	12	13	14	15	16

\* For classifications requiring specialized preemployment education or experience, this index will be the total Qualified Availability Analyses (Reports F & G) with one exception: if the total Qualified Availability Index for a particular classification, Occupational Group, or EEO-4 category exceeds the total Labor Force Availability Index for that job grouping (as calculated for the total Utilization Analysis - Report U), the latter will be used. (see page 6). If the classification does not require specialized preemployment education and/or experience, the index will be the Total Labor Force Availability Index.

GENERAL FEMALE, MINORITY, AGE 40-AND-OVER APPLICANT FLOW ANALYSIS - PART 2  
 for EE0-4 Category

Impact of Selection Procedure on Female, Minority and the Age 40-and-Over Applicants

Classifications, Occupational Groups, and EE0-4 categories in which openings have been filled:	Applicants Selected		Applicant Pool Representation				Opening Distribution Factor: % of total openings in each of the following categories	Weighted Applicant Pool Series		Parity Ratio		Deficient Selections	30% Test Promoted to applicant pool	Significantly Deficient Selections																	
	T	F	M	F	40+	%		M	F	40	M				F	40	M	F	M	F	40										
																						#	%	#	%	#	%	#	%	#	%
Classification:																															
////////// 0.6.																															
////////// 0.6.																															
////////// 0.6.																															
Total EE0-4 Category	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32

INTERNAL FEMALE, MINORITY APPLICANT FLOW ANALYSIS - PART 1  
 for EEO-4 Category \_\_\_\_\_  
 Impact of Recruitment Procedures on Female and Minority Employees

Classifications, Occupational Groups, and EEO-4 Categories in which openings have been filled:	Internal Applicant Pool		Internal Availability	Opening Distribution Weighting Factor: % of openings filled in: each of UG's clas-sif.	Weighted internal availability.	Parity No.		Deficient with Respect to Internal Availability							
	Min.	Fem.				Min.	Fem.								
T	No.	%	No.	%	Min.	Fem.	Min.	Fem.							
Classifications:															
///////// O.G.					/////////	/////////									
///////// O.G.					/////////	/////////									
///////// O.G.					/////////	/////////									
///////// O.G.					/////////	/////////									
///////// O.G.					/////////	/////////									
Total EEO-4 Category					/////////	/////////									
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

This includes only those classifications which require specialized preemployment education and/or experience.

INTERNAL FEMALE, MINORITY APPLICANT FLOW ANALYSIS - PART 2  
 for EO-4 Category

Effect of Selection Procedures on Female and Minority Applicants

Classification, Occupational Groups and EO-4 Categories in which openings have been filled by internal applicants	Agency Applicants Selected		Internal Applicant Pool		Opening Distribution of openings filled internally in: each of EO-4's OGs; classif.	Weighted Applicant Pool Representation	Parity No.		Deficient Selections	80's Test hired/promoted - 1-subj. cont. pool	Significantly deficient selections											
	Min. No.	Fem. %	T	Min. No.			Fem. %	Min.				Fem.	Min.	Fem.								
Classification:																						
//////// O.G.																						
//////// O.G.																						
//////// O.G.																						
//////// O.G.																						
EO-4 Category	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23

Age

Date

Report J  
Reporting Period to  
Page

PROMOTIONAL PROGRESSION ANALYSIS  
for EE0-4 Category

Agency Classifications	Number of Current and Former Incumbents	Classification Incumbents Originated from	Number Originating from Each Classification
1	2	3	4





Merit Step Increase Analysis

EEO-4 Category	Average merit step increase					Class codes of positions of employees given merit steps
	All employees	Minorities	Women	Age 40-and-over	Handicapped	
Officials and Admin.						
Professionals						
Technicians						
Protective Service Workers						
Para Professionals						
Office/Clerical Workers						
Skilled Craft Workers						
Service/Maintenance Workers						
Total Agency						

Grade Increase Analysis

Class codes of positions reclassified before reclassification

Average grade increase due to reclassification

EEO-4 Category	All employees	Minorities	Women	Age 40-and-Over	Handicapped
Officials and Administrators					
Professionals					
Technicians					
Protective Service Workers					
Para-Professionals					
Office/Clerical Workers					
Skilled Craft Workers					
Service/Maintenance Workers					
Total Agency					









## APPENDIX G

### LEGAL FOUNDATIONS

The history of Equal Employment Opportunity law in the United States is a long one. It includes Constitutional provisions, statutes, executive orders, and rules and regulations which prohibit employment discrimination on the basis of race, religion, sex, national origin, age, physical or mental handicap. Additionally, there have been implementing guidelines promulgated and significant interpretative judicial decisions rendered.

The following is a selected list of relevant citations with brief summaries:

#### FEDERAL

##### CONSTITUTION

###### Article XIII

Prohibition of slavery and involuntary servitude. Source of Congressional legislative authority for civil rights statutes.

###### Article XIV

Prohibition against state deprivation of life, liberty or property without due process of law or state denial of equal protection of the laws. Source of Congressional legislative authority as well as basis for leading judicial cases in the area of civil rights.

##### STATUTES AND EXECUTIVE ORDER

###### 42 U.S.C. 1981

"All persons shall have equal rights to make contracts, sue, enjoy full and equal benefit of all laws as those enjoyed by white citizens, and shall be subject to like punishment, penalties, taxes and licenses and to no other." Allegations of discrimination based on physically identifiable characteristics are required for an action under 1981.

###### 42 U.S.C. 1983

Creation of right to sue (for damages), any person who acts under color of state law, ordinance, regulation or custom to deprive one of any rights, privileges or immunities secured by the Constitution and laws.

###### 42 U.S.C. 1985

Creation of right to sue for damages where two or more persons conspire to prevent an officer from performing his duties, obstruct justice or intimidate a party, witness or juror, or deprive persons of rights and privileges under the law.

###### Title VI of the Civil Rights Act of 1964

Prohibits discrimination on the basis of race, color or national origin in federally assisted programs, i.e., programs receiving grants, loans or contracts, with exception of contracts of insurance or guaranty.

Title VII of the Civil Rights Act of 1964, found at 42 U.S.C. 2000(e) as amended.

Title VII prohibits employment discrimination on the basis of race, color, religion, sex, or national origin in the following areas: hiring; discharge; compensation; terms, conditions or privileges of employment or classification of employees or applicants for employment.

The prohibitions referenced above may not apply where religion, sex or national origin is a "bona-fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise" (BFOQ). Judicial findings of a BFOQ are exceedingly rare: a need for male actors or female actresses is one of the few.

Employers (including state agencies), labor organizations and employment agencies are covered by Title VII. A successful plaintiff can recover back pay, costs and attorneys' fees. Punitive damages are not available.

Equal Pay Act of 1963, found at 29 U.S.C. 206 (United States Code).

Amendment to the Fair Labor Standards Act of 1938 which prohibits the payment of lower wages on the basis of sex where jobs requiring equal skill, effort and responsibility are performed by employees of both sexes. Exceptions to this requirement of "equal pay for equal work" are where unequal payments are made pursuant to a seniority system, a merit system, a system where earnings are based on quantity or quality of production, or a differential based on factors other than sex. An employer may not lower wages in order to comply with this act. A successful Equal Pay Act plaintiff can obtain: an order raising wages; back pay differential for up to two years, (three years for willful violations) costs, and attorneys' fees.

Title IX of the Education Amendments of 1972

Prohibits discrimination in educational institutions against students or others on the basis of sex.

Executive Order 11246, as amended

Executive Order 11246 prohibits discrimination on the basis of race, color, religion, sex or national origins by federal contractors. Further, affirmative action with regard to employment, recruitment, compensation, and selection for training is required. The penalty for violations of the Executive Order is cancellation, termination or suspension of the contract, as well as future ineligibility for further federal contracts. These provisions apply to subcontractors as well.



Age Discrimination in Employment Act, found at 29 U.S.C. 621, et seq.

This statute prohibits discrimination in employment on the basis of a person's age which is over 40 but less than 70. (Please note that the Montana Human Rights Act prohibits discrimination against any age group). Age may constitute a BFOQ for certain jobs. There also are exceptions made for compliance with terms of a bona fide seniority system or employee benefit plan where there is no subterfuge to evade the purposes of the statute.

State agencies are employers within the meaning of the Act. Claims may be made for hire, reinstatement, back pay, benefits, liquidated damages, attorneys' fees and court costs.

Rehabilitation Act of 1973, found at 29 U.S.C. 793 and 794 (known as sections 503 and 504).

Section 503 prohibits discrimination on the basis of handicap by federal contractors and further requires affirmative action. Section 504 prohibits discrimination on the basis of handicap in the areas of employment program accessibility and education (preschool through secondary) by recipients of federal funds. HEW has promulgated regulations for 504 effective since June, 1977.

The definition of a handicapped person is fairly broad, encompassing both physical and mental impairment which substantially limits one or more major life activities (such as walking, seeing, working, caring for oneself), as well as those who are regarded by others as having had such an impairment.

State agencies which are recipients of federal funds must be concerned with employment practices and program accessibility; the latter includes physical barriers. The former requires employers to make "reasonable accommodation" for a person's handicap unless it would cause "undue hardship." There is little case law in this area; therefore the meaning of these terms has not been fully determined.

## STATE

### CONSTITUTION

Declaration of Rights, Article II, Section 4.

Individual Dignity. "The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas."

### STATUTES

Montana Human Rights Act, Title 49 MCA.

This act applies to all Montana employers (including the state), and prohibits discrimination against a person in employment or in a term, condition, or privilege of employment because of his race, creed, religion, marital status, color, or national origin or because of age, physical or mental handicap, or sex when the reasonable demands of the position do not require an age, physical or mental handicap or sex distinction. Further, the state may not discriminate in any services, goods, facilities, advantages or privileges.

### Chapter 3, Governmental Code of Fair Practices

Prohibits discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap and national origin by the State and local governments in employment, provision of state services, job placement services, licensing, educational programs, counseling and vocational guidance programs, and distribution of State funds. Nondiscrimination provisions are required in governmental contracts. State or local government permission of public accommodation discrimination is prohibited.

## APPENDIX H

### GLOSSARY OF TERMS

Action Item - A statement in an affirmative action plan specifying precisely what action will be taken to solve an identified problem or meet an identified need, the individual responsible and the time in which the action will be taken.

Affected Class - A group of people with a common characteristic such as race or sex who currently suffer employment discrimination or suffer the continuing effects of past discrimination. The term generally refers to women and minority group members, as well as to the handicapped.

Affirmative Action Plan - A result-oriented management plan with specific goals, timetables and assigned responsibilities for correcting deficiencies in the employment of minorities and women and for assuring that potential handicapped applicants are informed of job opportunities and are adequately considered.

Agency - For purposes of these guidelines the following units of State Government are an agency: The Office of the Governor; the Office of the Secretary of State; the State Auditor's Office; the Superintendent of Public Instruction's Office; the Department of Justice; the Department of Public Service Regulation; the Montana State Library; the Montana Historical Society; the Department of Fish, Wildlife and Parks; the Department of Health and Environmental Sciences; the Department of Highways; the Department of State Lands; the Department of Livestock; the Department of Natural Resources and Conservation; the Department of Revenue; the Department of Administration; the Department of Agriculture; the Department of Institutions; the Department of Commerce; the Department of Labor and Industry; the Department of Military Affairs; and the Department of Social and Rehabilitation Services.

Agency Head - The highest ranking elected or appointed official having the final authority to act for the agency on any matter relating to the operation of the agency.

American Indian/Alaskan Native Racial/Ethnic Group - A person having origins in any of the original people of North America, who maintains cultural identification through tribal affiliation or community recognition.

Applicant Flow Analysis - An analysis of whether or not minority and female applicants are applying for jobs in representative numbers, whether those who apply are selected in representative numbers, and if not, what part of the selection process is responsible.

Asian/Pacific Islander Racial/Ethnic Group - A person having origins in any of the original people of the far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippines and Samoa.

Availability - The minority/female/handicapped percentage of all persons with the required education, training, and experience needed by an agency for a particular job or job group who are in a specified area of recruitment.

Black Racial/Ethnic Group - A person having origins on one of the black racial groups of Africa.

Bona Fide Occupational Qualification - A job requirement which although normally unlawfully discriminatory, is lawful because it can be shown to be essential to the safe and efficient performance of the job. This would include essential requirements for a particular sex, physical or mental condition, age range, national origin or religion. Requirements for a particular sex can rarely be shown to be essential; racial requirements are never essential.

Bridge Position - A training position created between lower level positions which were previously dead-end positions and higher level positions to allow for upward mobility.

Classification - Positions which have been grouped together based on similarity in kind or subject matter of work, level of difficulty and responsibility, and work requirements (e.g., similar knowledge, skill, and ability requirements). The positions in a classification are sufficiently similar in duties and requirements so that the same title may be used to describe all positions, and the positions can be treated alike for recruitment, selection, compensation and other personnel purposes. (Example: Clerk I; Personnel Specialist II).

Disparate Impact - Results of a neutral, equally-applied employment practice which are more unfavorable for applicants or employees of one race or sex than for others. A practice (such as requiring a high school diploma) which has a disparate impact (disqualifies disproportionate numbers of minority applicants) is unlawfully discriminatory unless it can be shown to serve an essential business purpose (i.e., produce better performing employees).

EEO-4 Category - One of eight (8) occupational categories reported on the Federally-required annual EEO-4 report. These eight categories are: officials and administrators; professionals; technicians; protective service workers; paraprofessionals; office and clerical; skilled craft workers; service-maintenance. Each category is reported by race, sex, and salary range.

Handicap - For purposes of these guidelines, a handicap is a physical or mental condition which limits a major activity such as walking, caring for oneself, seeing, hearing, speaking, learning or breathing which limits ability to find and hold employment.

Hispanic - A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

Job, Job Group - Generic terms used to apply to individual positions, classifications, occupational groups, EEO-4 categories and to the group of all jobs in the agency.

Job Qualifications -

- A. Minimum Job Qualifications - Specified pass/fail hiring criteria (and their equivalents) which distinguish applicants who can likely perform the duties of the position acceptably from those who can likely not perform the duties of the position acceptably.
- B. Optimal Job Qualifications - Hiring criteria (and their equivalents) above minimum criteria which distinguish applicants who can likely perform at an optimal level from those who can likely not perform at that level.

Minority - A segment of the population which differs from others in racial or national origin characteristics and which suffers from discrimination. This generally and in these guidelines includes: blacks, Hispanics, Asians/Pacific Islanders and American Indians/Alaskan Natives.

Occupational Group - A grouping of classifications based on similarity of work. Whereas a classification is identified with a particular level or grade, an occupational group involves an entire area of work, without regard to level. (Examples: accountants; chemical engineers).

Race/Sex Conscious Selection Procedures - Procedures which take race and sex into consideration along with qualifications in determining what applicants will advance through the selection process and be finally selected. These procedures may be lawfully used when they are established as temporary measures to correct demonstrable underutilization provided they do not present an absolute bar to the employment or advancement of persons of other races or the other sex.

Reasonable Accommodation - An employer obligation to modify facilities to insure accessibility of handicapped persons or provide special equipment, modify existing equipment, or restructure a job to permit an otherwise qualified handicapped applicant or employee to hold employment except where the accommodation needed would be too costly or substantially reduce the safe and efficient operation of the agency.

Underutilization - Employment situations in which there are significantly fewer persons of a particular group (i.e., women or minorities) serving at a particular level or holding a particular kind of position than might be expected when compared to their availability.

Uniform Selection Guidelines - Guidelines adopted in 1978 by the Equal Employment Opportunity Commission, Civil Service Commission, U.S. Department of Labor, and the U.S. Department of Justice for implementing uniform employee selection procedures which insure that unlawful discrimination in employment practices does not occur.

White racial/ethnic group - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.





